



INSTITUCIONI I AVOKATIT TË POPULLIT
INSTITUCIJA OMBUDSMANA
OMBUDSPERSON INSTITUTION

ANNUAL REPORT 2024 No. 24



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Ombudsperson's Address

Honourable Members of the Assembly of the Republic of Kosovo,

It is an honour to present before you the Annual Report of the Ombudsperson Institution for the year 2024, in accordance with the constitutional obligation. This report reflects the state of human rights in the country, as well as the efforts and engagement of the Ombudsperson in overseeing and protecting human rights and freedoms.

During 2024, citizens submitted 1,410 complaints, of which 110 were filed by citizens of Serbian nationality and 104 by citizens from other non-majority communities. Through the investigation of complaints and ex-officio investigations, we have issued a total of 176 recommendations.

An overall analysis of the investigated cases highlights an ongoing concern: the inability of judicial institutions to ensure fair trials due to prolonged and delayed judicial proceedings. The high number of citizen complaints regarding the lack of responses from public authorities is an indicator of the dysfunction of accountability mechanisms in law enforcement, the inefficiency, and negligence of public administration in handling citizen complaints, which in turn contributes to an increasing number of court cases.

Vulnerable categories have faced challenges in realizing their rights. In some instances, the Ombudsperson has observed a lack of dignified treatment of these groups. The absence of medical treatment coverage for individuals with war-disabled status, obstacles faced by victims of sexual violence in obtaining their status – both during the application process and in accessing entitled services – and the requirement for tetraplegic and paraplegic individuals to appear for reassessment before medical commissions are among the concerns raised by the Ombudsperson this year.

The Ombudsperson has consistently emphasized the need for social dialogue as a prerequisite for signing the General Collective Agreement, functionalizing the Economic and Social Council, and other mechanisms that ensure respect for labour rights. Workplace accidents with health consequences remain alarming, especially given the high number of fatal incidents. Another concerning aspect is the inconsistency of reported data on these incidents, as well as the lack of effective inspections and enforcement of protective measures for workers.

Investigations have also revealed that citizens continue to face challenges in exercising their social and healthcare rights, including the absence of a functional health insurance system and shortages of essential medicines and medical equipment.

Gender equality remains an unfulfilled objective. The reported cases of domestic violence reflect the alarming scale of this negative phenomenon in our society. Victims often lack institutional support, especially in their reintegration process. Women continue to face discrimination in the labour market, limited opportunities for career advancement, and barriers to employment in certain professions. Once again, the Ombudsperson has called for continued efforts to ensure equal opportunities for women in all areas of life, guarantee their protection from violence, and improve gender representation in decision-making positions.

Community rights are guaranteed by the Constitution of the Republic of Kosovo; however, the implementation of legislation that ensures these rights requires further commitment, as shortcomings are observed, particularly in employment inclusion, linguistic rights, and educational rights. Strengthening the enforcement of existing legislation, enhancing monitoring

and evaluation mechanisms for the implementation of community rights is a constitutional obligation essential for building a democratic society.

The Ombudsperson places particular importance on children's rights, as they are entitled to special protection under the Constitution. Public authorities are obligated to provide a safe environment for children, ensuring access to services and special support. The Ombudsperson has identified significant shortcomings in fulfilling the state's obligations to protect children. The non-operationalization of guardianship bodies and the lack of effective measures to protect children from violence remain pressing issues requiring immediate and coordinated intervention. In addition, children with disabilities face physical and social barriers that hinder their access to educational, healthcare, and social services.

Throughout the reporting year, the Ombudsperson has issued concrete recommendations urging institutions to enhance the effective implementation of laws, ensure timely judicial protection, improve transparency and accountability by eliminating the practice of non-responsiveness, advance the healthcare system to provide full health insurance coverage and equal access to services for all citizens, promote social dialogue to improve workers' rights, strengthen mechanisms to protect the rights of vulnerable communities, and adopt clearer policies to support the elderly, persons with disabilities, and victims of violence.

Despite the Ombudsperson's continued engagement, the implementation rate of the Ombudsperson's recommendations by public authorities remains unsatisfactory this year as well. The implementation of these recommendations directly contributes to improving citizens' lives by restoring violated rights. The Assembly of the Republic of Kosovo plays a crucial role in ensuring the accountability of state institutions. Therefore, it is essential that the Assembly exercises stronger oversight over institutions responsible for implementing the Ombudsperson's recommendations and holds them accountable for non-compliance.

On May 23, 2024, the Assembly voted against the approval of the Ombudsperson's Annual Report for 2022. The vote against, conducted without debate and without any solid justification, triggered reactions from both local and international organizations. This situation underscores the need to change how the Ombudsperson's Annual Report is treated in the Assembly. The report review process should emphasize its findings and the oversight of recommendation implementation, enabling deputies to fulfil their mandate in monitoring law enforcement and ensuring that state institutions operate in accordance with the highest democratic standards. Such a change would be a significant step toward strengthening independent institutions and safeguarding their independence from any interference.

I conclude my address by emphasizing that the protection of human rights is a continuous process that requires commitment and broad cooperation to ensure the rule of law and respect for the democratic standards enshrined in the Constitution of the Republic of Kosovo. The Ombudsperson remains committed to fulfilling its constitutional and legal mandate in service of the citizens, ensuring the protection and respect of fundamental human rights and freedoms.

The Ombudsperson's Mandate

The Ombudsperson is an independent institution established by Article 132 of the Constitution of the Republic of Kosovo and, based on the judgments of the Constitutional Court, is an independent institution in terms of functionality, organization, and budget. The most significant aspect of the Ombudsperson's independence is the constitutional provision that prohibits any instructions or interference from other bodies or institutions in the Republic of Kosovo. The Ombudsperson's main constitutional competence is to oversee and protect the rights and freedoms of individuals from illegal and irregular actions or omissions of public authorities. This oversight and protection is initially carried out by the Ombudsperson by requesting information from any authority exercising legitimate power in the Republic of Kosovo, and these authorities are obligated to respond to such requests as defined by the Constitution.

According to the Constitution and the Law on the Ombudsperson, the Ombudsperson exercises several competences/mandates, specifically: (I) the mandate of the Ombudsperson for the protection of human rights; (II) the mandate of the Ombudsperson as an Equality Body; (III) the mandate of the Ombudsperson as a National Mechanism for the Prevention of Torture. Furthermore, the Ombudsperson is an authorized party for referring cases to the Constitutional Court¹.

An important competence of the Ombudsperson is that, based on its investigations into cases where violations of human rights are identified, it prepares reports with relevant findings, addresses recommendations to the authorities, and proposes concrete measures.

Another important aspect of the Ombudsperson's work is the fact that it submits an Annual Report to the Assembly of the Republic of Kosovo regarding its findings in the field of human rights violations, and it may also submit other special reports.

It is the duty and responsibility of public authorities to respect and implement the recommendations of the Ombudsperson, as a measure of adherence to the rule of law and the functioning of democracy in our country.

The Mandate for the Protection of Human Rights

The Ombudsperson exercises the mandate for the protection of human rights from illegal and irregular actions or omissions of public authorities through a mechanism of investigating cases submitted by complainants, investigating potential violations ex-officio, contesting an administrative act in defence of the public interest, giving general recommendations for the functioning of the judiciary system, providing opinions as an *amicus curiae*, giving recommendations in cases of delays in judicial procedures, leading mediation and reconciliation procedures, assisting victims of discrimination, providing recommendations to public institutions for the implementation of obligations in the field of prohibition of discrimination and equality, referring cases to the Constitutional Court, and to other mechanisms established by specific laws.

The Mandate for Monitoring the Respect of Human Rights

The Ombudsperson exercises the mandate of monitoring the respect of human rights through a mechanism of monitoring judicial cases where the parties are considered victims of alleged human rights violations, or ex-officio where there may be systematic violations of human rights. This also includes the obligation of

¹ Constitution of the Republic of Kosovo, Article 113, paragraph 2

public authorities to respond to requests made by the Ombudsperson, monitoring the implementation of recommendations provided by the Ombudsperson, overseeing the standard of drafting legislation concerning human rights provisions and their alignment with the Constitution, and monitoring the implementation of laws focused on human rights and other mechanisms defined by specific laws.

The Role of the Ombudsperson in Promoting Human Rights

The Ombudsperson plays a crucial role in promoting human rights, a role exercised through mechanisms aimed at raising public and institutional awareness of fundamental rights and freedoms. This is achieved through education, training, and lectures, the publication of opinions and brochures presenting the Ombudsperson's stance on specific issues, statements on the implementation of particular measures, the organization of open human rights days, conferences, thematic roundtables, cooperation, and coordination of work with social partners, exchange visits with counterpart institutions, media appearances presenting the Ombudsperson's opinions, and other mechanisms defined by special laws.

The Role of the Ombudsperson as a National Mechanism for the Prevention of Torture

The Ombudsperson exercises the mandate of the National Mechanism for the Prevention of Torture and other cruel, inhuman, or degrading treatment or punishment through regular and unannounced visits to all places where persons deprived of liberty are held. This includes police detention, pre-trial detention, stays in healthcare institutions, customs detention, migrant detention, and any other location where human rights and freedoms violations are suspected. In accordance with the Law on the Ombudsperson, recommendations are

issued regarding the compliance of laws and other acts with the Constitution and international standards for the prevention of torture. The NPM collaborates with international, local, and other mechanisms defined by special laws in the field of torture prevention.

The Role of the Ombudsperson as an Equality Body

The Ombudsperson also exercises its mandate as an equality body for the promotion, monitoring, and support of equal treatment without discrimination based on the grounds protected by the Law on Gender Equality and the Law on Protection from Discrimination, in line with the Law on the Ombudsperson. This mandate is carried out through monitoring the implementation of the Law on Protection from Discrimination, investigating cases of discrimination, promoting good equality practices, informing the public about discrimination cases, addressing gender discrimination cases, and cooperating with social partners, local and international non-governmental organizations.

Changes in the Reporting Practices of the Ombudsperson to the Assembly of Kosovo

In a functioning democracy, independent institutions play an irreplaceable role in maintaining the balance of powers, guaranteeing human rights, and overseeing the functioning of state institutions. Among these institutions, the Ombudsperson, as an independent constitutional institution, has a special mandate to protect and promote human rights by ensuring accountability and providing recommendations for improving the situation. In this context, the treatment of the Ombudsperson's Annual Report by the Assembly of the Republic of Kosovo is an essential element for the democratic functioning of the state.

The Constitution of the Republic of Kosovo,

in Article 135, paragraph 1, clearly states that the Ombudsperson “shall submit an annual report to the Assembly of the Republic of Kosovo.” The choice of the word “shall submit” and the avoidance of the word “reports” in all language versions of the Constitution is not accidental. This formulation indicates that the Ombudsperson is not subject to a supervisory reporting process by the Assembly but merely presents data and recommendations for the protection of human rights. Any attempt to treat this report as a document requiring approval or rejection contradicts the constitutional guarantees of the Ombudsperson Institution’s independence and is inconsistent with international standards for National Human Rights Institutions (NHRIs).

However, a detailed analysis of the Rules of Procedure of the Assembly of the Republic of Kosovo and past practices has revealed an important issue requiring attention: the manner in which the Ombudsperson’s Annual Report is handled in the Assembly. According to Article 98 of the Rules of Procedure, the annual reports of independent bodies established by the Assembly are subject to a specific review procedure, culminating in a vote for approval by the Assembly members.

The Rules of Procedure of the Assembly consider all independent institutions as equivalent, without distinguishing between those established by the Assembly and those that derive directly from the Constitution. The Ombudsperson is a constitutional institution, and its existence does not depend on a decision of the Assembly but on the Constitution of Kosovo itself. Therefore, it cannot be treated as an entity created by the political will of legislators, and consequently, its Annual Report should not be subject to a vote for approval in the Assembly.

Voting on the approval of a report aimed at highlighting human rights violations and providing recommendations for improving the situation diverts attention from the primary purpose of this report. Such a report is not an administrative document requiring formal

approval but a mechanism to encourage improvements in good governance and respect for human rights.

This flawed approach creates a twofold risk. First, by subjecting the Ombudsperson’s Report to the same procedure as other reports, there is a risk of using it as a tool to interfere with the Institution’s independence, allowing deputies to approve or reject it regardless of its content. Second, this approach does not contribute to improving the implementation of the Ombudsperson’s recommendations by state institutions, limiting the Assembly’s role to a formal voting procedure instead of focusing on monitoring the implementation of the recommendations made in the report.

Considering these challenges, in 2016, the Ombudsperson addressed the Assembly with ex-officio Report No. 563/2016 regarding the procedure for reviewing the Ombudsperson’s Annual Report according to the Rules of Procedure of the Assembly of the Republic of Kosovo. In this report, a fundamental change was proposed in how the Assembly handles its annual report. The report asserts that instead of a voting process for approval, the Assembly should focus on monitoring the implementation of the Ombudsperson’s recommendations by relevant institutions. This request is also reiterated in the European Commission’s Report on Kosovo, which states: “The Assembly should address the Ombudsperson’s recommendations by improving its oversight role.”

At the international level, independent human rights institutions function as accountability mechanisms, and legislatures must play a supportive role in their work by ensuring that their recommendations are taken seriously and implemented by state institutions. This is a well-established practice in democratic countries and a standard promoted by international organizations such as the United Nations and the Council of Europe, through the Paris Principles and the Venice Principles. These principles stipulate that National Human Rights Institutions (NHRIs)

must operate independently and without political interference. Furthermore, states must ensure that NHRIs present their annual reports before the Assembly for review and that their recommendations are effectively followed up within established timeframes. In addition, the European Commission's ECRI General Policy Recommendation No. 2 – Equality Bodies to Combat Racism and Intolerance at National Level recommends that equality bodies should function independently at the operational level and be free from any “interference from the State, political parties, or other actors.” It explicitly states that annual reports of equality bodies should be discussed in the Assembly or its committees and by the government but should not be subject to their approval.

On May 23, 2024, the Assembly belatedly reviewed and voted against the approval of the Ombudsperson's Annual Report for 2022, despite the fact that it had received a green light and was recommended for approval by three functional committees of the Assembly. The rejection of the Ombudsperson's Annual Report without debate and without a solid basis not only undermines the credibility and autonomy of the institution but also sets a concerning precedent that could erode public trust in the Ombudsperson's role as a guarantor of human rights. This unprecedented act sparked strong reactions from both local and international organizations. In his statement, the Ombudsperson emphasized that this vote constituted a direct interference in institutional independence and risked undermining his role as a human rights monitoring mechanism in Kosovo. International networks such as ENNHRI and EQUINET addressed a joint letter of response to the Speaker of the Assembly and the President of the Republic of Kosovo, as did major international organizations operating in Kosovo and civil society organizations. These actors called for respect for the independence of the Ombudsperson Institution, as well as the necessity of changing existing practices and ensuring a more harmonized approach with international standards.

In this regard, it has been essential to examine the practices of other countries in the region to understand how the procedure can be improved in Kosovo. An important example is the practice followed in Albania, where the Ombudsperson's annual report is presented before the Assembly, reviewed by the relevant Assembly Committee, then discussed in a plenary session, and concluded with the adoption of a resolution. This resolution serves as a basis for improving public policies and advancing issues that need to be addressed by the responsible institutions.

Therefore, in order to strengthen the role of effective oversight by the Assembly, it is crucial to undertake the following steps:

1. Amendment of the Assembly's Rules of Procedure to harmonize the treatment of the Ombudsperson's Annual Report with international standards

- Eliminate the procedure of voting for the approval or rejection of the Ombudsperson's Annual Report, treating it instead as an informative and recommendatory document regarding the state of human rights in the country.
- Instead of voting, introduce a mechanism for a more in-depth discussion of the content of the report and its recommendations.

2. Creation of an effective Assembly oversight mechanism for the implementation of the Ombudsperson's recommendations

- Establish an Assembly committee responsible for monitoring the implementation of the Ombudsperson's recommendations by the relevant institutions.
- This mechanism should ensure regular reporting by the targeted institutions on the measures taken concerning the provided recommendations.

3. Setting clear timelines for the review and discussion of the Report in the Assembly

- The Ombudsperson's Annual Report should be reviewed within a period of three months from its submission.
- The plenary session of the Assembly should treat the report as the first item on the agenda to ensure adequate attention.

4. Adoption of an Assembly Resolution ensuring further action on the issues raised in the Report

- After reviewing the report, the Assembly should adopt a resolution summarizing the priorities and most urgent human rights issues.
- The resolution should include specific guidelines for state institutions on the measures that need to be taken to address the recommendations.

Changing the way the Ombudsperson's Annual Report is handled in the Assembly is not merely a technical matter, but an important step towards strengthening democratic institutions and accountability in Kosovo. By adopting a new approach that focuses on monitoring the implementation of recommendations, the Assembly of Kosovo would demonstrate its commitment to protecting human rights and ensuring that state institutions operate in accordance with the highest democratic standards. This proposal is not only a procedural adjustment but also a reflection of a new political culture – a framework where transparency, accountability, and respect for human rights become central pillars of decision-making and governance in Kosovo.

Statistical Summary of Complaints and Cases

From January 1, 2024, to December 31, 2024, the Ombudsperson Institution, including its central office in Prishtina and regional offices in Prizren, Gjilan, Ferizaj, Peja, Mitrovica South, Mitrovica North, Gjakova, and Graçanica, received 1,410 complaints from the citizens of the Republic of Kosovo. These complaints involved allegations of violations of human rights and freedoms by public authorities in the Republic of Kosovo, as well as requests for legal advice or assistance.

An analysis of the complaints submitted by citizens, categorized according to constitutional human rights and freedoms, shows that the majority of them relate to: the right to a fair and impartial trial, the right to legal remedies, the right to work and exercise one’s profession, health and social protection, protection of property, equality before the law, rights of the accused, children’s rights, and others.

The following tables present a more detailed breakdown of the total number of complaints received, examined, and decided on regarding their admissibility for investigation, cases opened for investigation on the Ombudsperson’s own initiative, the ethnic affiliation of the complainants, gender affiliation, the public authorities responsible for the complaints, the number of cases concluded/closed, the number of reports and recommendations published to public authorities, and the compliance with these recommendations by the relevant authorities.

Table 1. Complaints Submitted to the Ombudsperson in 2024

Total Number of Complaints Submitted	1410
Number of Individuals Involved in Complaints	4528
Ethnic Affiliation of Complainants	
Albanians	1196
Serbs	110
Ashkali	23
Bosniaks	20
Roma	17
Turks	12
Egyptians	10
Gorani	7
Other	15
Complaints Submitted, Categorized by Ombudsperson's Offices	
Central Office – Prishtina	666
Regional Office – Prizren	138
Regional Office – Gjilan	132

Regional Office – Peja	124
Regional Office – Ferizaj	99
Regional Office – Gjakova	97
Regional Office – Mitrovica South	80
Regional Office – Mitrovica North	39
Regional Office – Graçanica	35
Gender Affiliation of Complainants Based on Submitted Complaints	
Male	1031
Female	379
Public Authorities Against Which Complaints Were Filed (one complaint may have multiple responsible parties)	
Ministries	467
Courts	432
Municipalities	220
Police	95
Prosecution Offices	63
Public Enterprises	43
Other	294

Table 2. Number of Complaints Submitted, According to Chapter II of the Constitution, Fundamental Rights and Freedoms (a complaint may include multiple rights and freedoms)

The Right to Legal Remedies	394
The Right to Fair and Impartial Trial	361
Health and Social Protection	218
The Right to Work and Exercise Profession	164
Protection of Property	112
The Rights of the Accused	84
Equality Before the Law	74
The Rights of the Child	52
Prohibition of Torture	33
The Right to Education	29
Human Dignity	28
The Right to Marriage and Family	17
Responsibility for Environmental Protection	15
The Right to Life	13
The Right to Liberty and Security	13
The Right to Privacy	8
Freedom of Belief, Conscience, and Religion	7

The Right of Access to Public Documents	4
Freedom of the Media	4
Judicial Protection of Rights	4
Freedom of Movement	3
Freedom of Expression	3
Other	12

Table 3. Number of Complaints Submitted, According to Sustainable Development Goals (SDGs) - A complaint may include multiple SDGs

16. Peace, Justice, and Strong Institutions	1,137
3. Good Health and Well-being	134
10. Reduced Inequalities	49
8. Decent Work and Economic Growth	33
17. Partnerships for the Goals	17
5. Gender Equality	13
4. Quality Education	11
7. Affordable and Clean Energy	8
15. Life on Land	7
6. Clean Water and Sanitation	7
9. Industry, Innovation, and Infrastructure	4
11. Sustainable Cities and Communities	3
12. Responsible Consumption and Production	2
2. Zero Hunger	1

Table 4. Complaints Classified as Inadmissible

Number of Inadmissible Complaints	826
Inadmissibility Based on Articles of the Law on the Ombudsperson	
In the use of legal remedies - Article 22, Paragraph 1.3	279
No violation, misadministration - Article 22, Paragraph 1.1	203
Outside jurisdiction - Article 21, Paragraph 1.3.1	178
Failure to use legal remedies - Article 22, Paragraph 1.4	138
Lack of interest, failure of party - Article 22, Paragraph 1.2	21
Submitted after legal deadline - Article 21, Paragraph 1.3.2	4
Official Note	2
Misuse of the right to complaint - Article 21, Paragraph 1.3.4	1

Table 5. Complaints Awaiting Review

Number of Complaints Awaiting Review	2
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Table 6. Complaints Declared Admissible for Investigation

Number of Complaints Declared Admissible for Investigation	582
Number of Cases Investigated by the Ombudsperson (<i>ex-officio</i>)	39
Complaints Opened for Investigation, Based on the Ethnicity of Complainants	
Albanians	455
Serbs	86
Bosniaks	8
Roma	7
Turks	6
Ashkali	5
Egyptians	5
Gorani	5
Other	5
Gender of Complainants, Based on the Complaints Investigated	
Male	417
Female	165
Public Authorities Investigated Based on Complaints (a complaint may have more than one responsible party)	
Ministries/Administration	197
Courts	194
Municipalities	107
Police	32
Public Enterprises	21
Prosecution Offices	19
Other	109

Table 7. Number of Investigated Complaints, According to Chapter II of the Constitution, Fundamental Rights and Freedoms (a complaint may include multiple rights and freedoms)

The Right to a Fair and Impartial Trial	179
The Right to Legal Remedies	165
Health and Social Protection	75
The Right to Work and Practice of Profession	73
Equality Before the Law	53
Protection of Property	40
Children's Rights	36
The Right to Education	22
Human Dignity	17
Prohibition of Torture	15
The Rights of the Accused	14
Environmental Responsibility	11
The Right to Life	7
Freedom of Belief, Conscience, and Religion	6
The Right to Marriage and Family	5
The Right to Liberty and Security	4
The Right to Privacy	3
Freedom of Media	3
Principle of Legality and Proportionality in Criminal Cases	2
Freedom of Expression	2
Freedom of Assembly	2
Freedom of Association	2
Freedom of Movement	1
Religious Confessions	1
The Right of Access to Public Documents	1
Electoral Rights and Participation	1
Judicial Protection of Rights	1
Limitation of Fundamental Rights and Freedoms	1

Table 8. Number of Investigated Complaints by SDGs (A Complaint May Include Multiple SDGs)

16. Peace, Justice, and Strong Institutions	483
3. Good Health and Well-being	45
10. Reduced Inequalities	20
8. Decent Work and Economic Growth	14
17. Partnerships for the Goals	7
4. Quality Education	6

5. Gender Equality	5
15. Life on Land	4
7. Affordable and Clean Energy	3
6. Clean Water and Sanitation	2
9. Industry, Innovation, and Infrastructure	2
11. Sustainable Cities and Communities	1
12. Responsible Consumption and Production	1
2. Zero Hunger	1

Table 9. Number of Ex-Officio Cases by Chapter II of the Constitution, Fundamental Rights and Freedoms (a case may include multiple rights and freedoms)

Equality Before the Law	11
Children's Rights	11
The Right to Life	5
The Right to Education	5
Health and Social Protection	5
Human Dignity	2
Prohibition of Torture	2
The Right to Legal Remedies	2
The Right to Marriage and Family	2
The Right to Work and Practice of Profession	2
Environmental Responsibility	2
The Rights of the Accused	1
The Right to Privacy	1
Freedom of Belief, Conscience, and Religion	1
Freedom of Expression	1
Freedom of Media	1
Protection of Property	1
Judicial Protection of Rights	1

Table 10. Number of Ex-Officio Cases by SDGs (a case may include multiple SDGs)

16. Peace, Justice, and Strong Institutions	28
3. Good Health and Well-being	6
4. Quality Education	4
10. Reduced Inequalities	2
17. Partnerships for the Goals	1
5. Gender Equality	1
7. Affordable and Clean Energy	1
6. Clean Water and Sanitation	1

Table 11. Complaints Resolved Upon Completion of Investigations (includes complaints from 2024 and previous years)

Total Number of Resolved/Closed Complaints	906
Complaints Resolved/Closed, Based on Articles of the Law on the Ombudsperson	
Resolved in Agreement with Complainant's Request – Article 21, item 1.5	312
Closed with a Report Confirming HR Violations – Article 24, item 3	256
Inadmissible, No Violation or Misadministration Found - Article 22, item 1.1	194
Inadmissible, Legal Remedies in Use – Article 22, item 1.3	61
Inadmissible, Legal Remedies Not Exhausted – Article 22, item 1.4	40
Closed Due to Lack of Interest from Complainant or Party's Failure to Act – Article 22, item 1.2	35
Inadmissible, Outside Jurisdiction – Article 21, item 1.3.1	8

Table 12. Reports with recommendations and Letters with recommendations

Reports for complaints investigated (from citizen complaints)	54
Reports on investigative cases at the initiative of OI, <i>Ex-officio</i>	8
Reports of NPM	6
Letters with recommendations for complaints investigated (from citizen complaints)	3
Recommendations in Reports and letters with recommendations	176

Table 13. Status of Recommendations

Implemented recommendations	37
Partially implemented recommendations	7
Unimplemented recommendations	13
Recommendations pending implementation	119
Total	176

Table 14. Comparison of the percentage of implementability of the Ombudsperson's recommendations addressed in 2023, status according to the report on December 31, 2023, and update on December 31, 2024

Recommendations 2023	Implementability percentage as of December 31, 2023	Implementability percentage as of December 31, 2024
Implemented recommendations	41 – 14%	69 – 23%
Partially implemented recommendations	7 – 2%	17 – 6%
Recommendations pending implementation	252 – 84%	200 – 66%

Unimplemented recommendations	0 - 0%	14 - 5%
Total recommendations	300	300

Table 15. Status of Recommendations by Institutional Level

Institutional Level	Total recommendations	Implemented	Partially implemented	Unimplemented	Pending implementation
Central Level	108	21	7	11	69
Local Level	13	4	0	0	9
Judiciary/Prosecution	55	12	0	2	41
Total	176	37	7	13	119

Table 16. Requests and Opinions

Requests directed to the Constitutional Court	5
Opinions directed to the Constitutional Court	3
Opinions directed to other authorities	7
Amicus Curiae	3

Table 17. Complaints Received and Investigated by the Department for the Protection of Children's Rights

Number of complaints submitted	63
Number of complaints accepted for investigation	50
Number of inadmissible complaints	13
Number of <i>ex-officio</i> initiative cases	13
Total	76

Table 18. Implementability of the Ombudsperson's recommendations by responsible public authorities

Responsible authority	Implemented recommendations	Partially implemented recommendations	Unimplemented recommendations	Pending implementation
Assembly of the Republic of Kosovo	0	0	0	3
Government of the Republic of Kosovo	0	0	2	13
Ministry of Health	5	0	0	11
Ministry of Justice	3	5	2	10
Ministry of Internal Affairs	2	0	0	12
Ministry of Education, Science, Technology, and Innovation	4	0	2	0
Ministry of Finance, Labour, and Transfers	1	0	0	6
Ministry of Local Government Administration	0	0	0	1
Academy of Justice	1	0	0	0
Agency for Gender Equality	0	0	0	1
Government Commission for Recognition and Verification of the Status of Persons Victimized during the Liberation War of Kosovo	0	0	0	4
Labour Inspectorate	2	0	0	3
Kosovo Police Inspectorate	0	0	2	0
Central Election Commission	0	0	2	1
Independent Media Commission	0	2	0	0

Kosovo Health Service, Clinical and University Center	1	0	0	4
Kosovo Bar Association	0	0	1	0
Radio Television of Kosovo	2	0	0	0
Kosovo Prosecutorial Council	0	0	0	2
Kosovo Judicial Council	0	0	0	4
SCSCK	3	0	1	10
Court of Appeals	3	0	1	3
Kosovo Commercial Court	1	0	0	0
Basic Court in Prishtina	4	0	0	18
Basic Court in Prizren	0	0	0	2
Basic Court in Peja	1	0	0	0
Basic Court in Gjilan	0	0	0	2
Municipality of Prishtina	2	0	0	1
Municipality of Skenderaj	0	0	0	1
Municipality of Fushë Kosova	0	0	0	3
Municipality of Gjakova	2	0	0	0
Municipality of Gjilan	0	0	0	1
Municipality of Istog	0	0	0	1
Municipality of Graçanica	0	0	0	1
Municipality of Novobërdë	0	0	0	1
Total	37	7	13	119

Graphic Representation of the Complaints Filed with the Ombudsperson

January 1, 2024 - December 31, 2024

Figure 1. Graphic Representation of Complaints of Citizens Reviewed/ Resolved by the Ombudsperson

- Complaints Determined as Admissible for Investigation
- Complaints Determined as Inadmissible for Investigation
- Complaints Pending Review

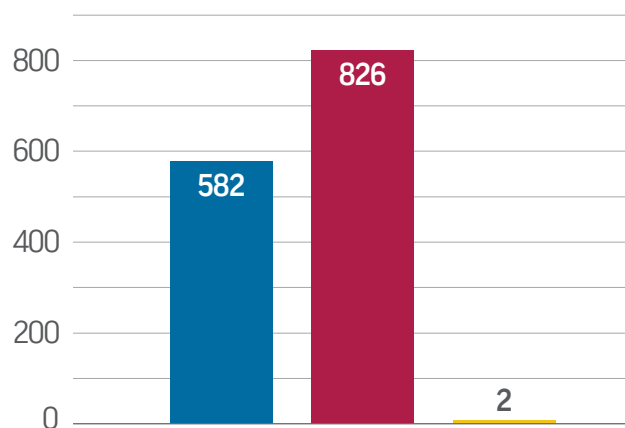


Figure 2. Percentage of Complaints by Ethnic Affiliation of Citizens

- Albanians
- Serbs
- Ashkali
- Bosniaks
- Roma
- Turks
- Egyptians
- Gorani
- Other

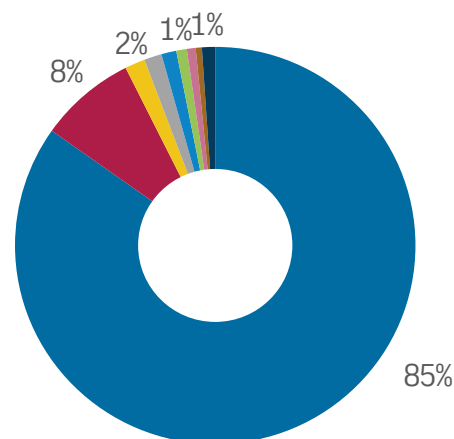


Figure 3. Gender Affiliation of Complainants Based on Submitted Complaints

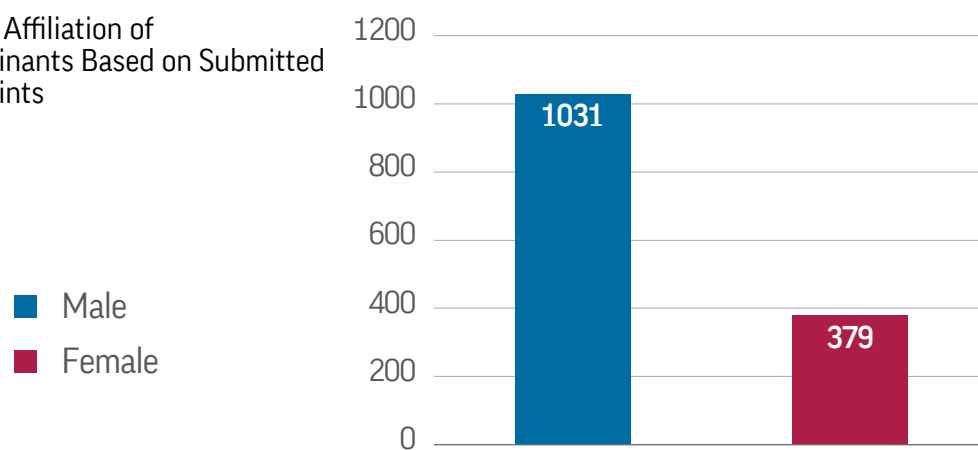


Figure 4. Public Authorities Against Which Complaints Were Filed

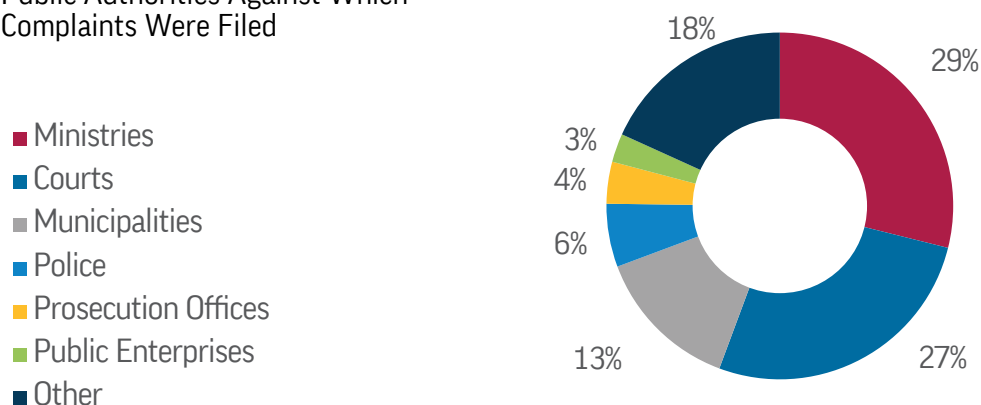


Figure 5. Complaints Filed Based on Chapter II of the Constitution – Fundamental Rights and Freedoms

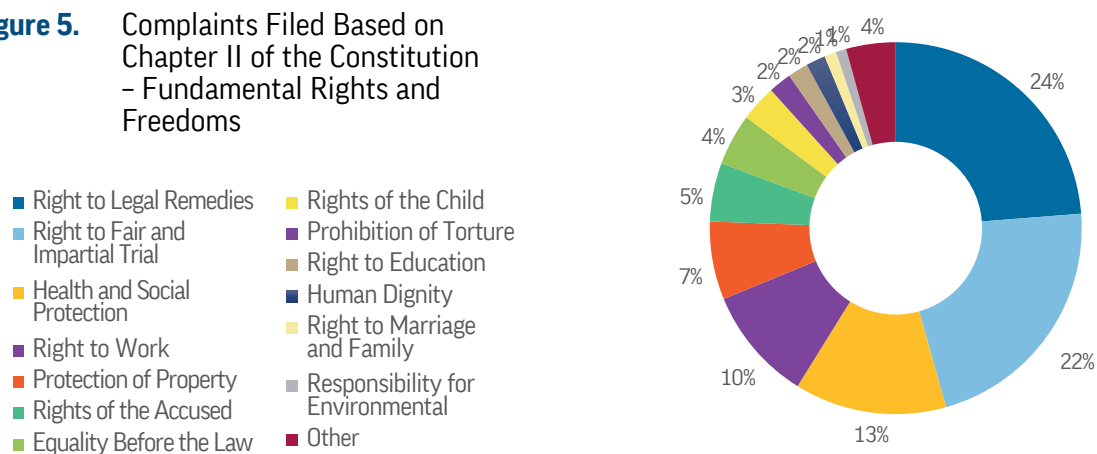


Figure 6. Number of Complaints Filed by Human Rights Categories (one complaint may include multiple categories)

- Peace, Justice, and Strong Institutions
- Good Health and Well-being
- Reduced Inequalities
- Partnerships for the Goals
- Decent Work and Economic Growth
- Gender Equality
- Quality Education
- Life on Land
- Affordable and Clean Energy
- Clean Water and Sanitation
- Industry, Innovation, and Infrastructure
- Sustainable Cities and Communities
- Responsible Consumption and Production
- Zero Hunger

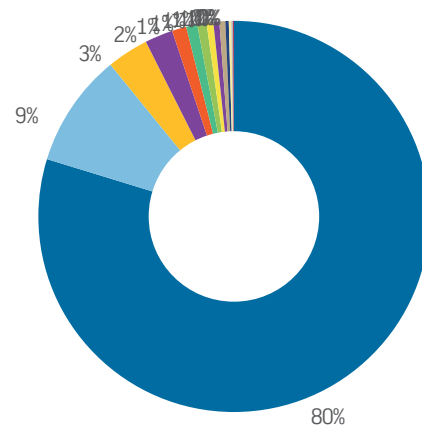


Figure 7. Complaints Opened for Investigation, by Ethnic Affiliation of Complainants

- Albanians
- Serbs
- Ashkali
- Bosniaks
- Roma
- Turks
- Egyptians
- Gorani
- Other

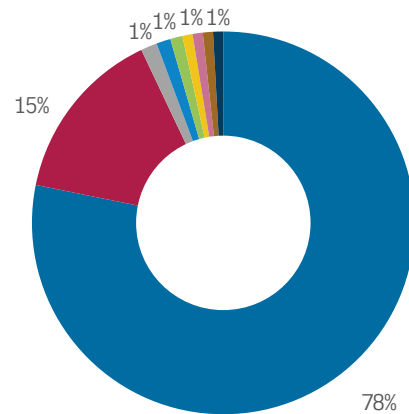


Figure 8. Public Authorities Against Which Investigations Were Opened Based on Complaints

- Ministries/Administration
- Courts
- Municipalities
- Police
- Public Enterprises
- Prosecution Offices
- Other

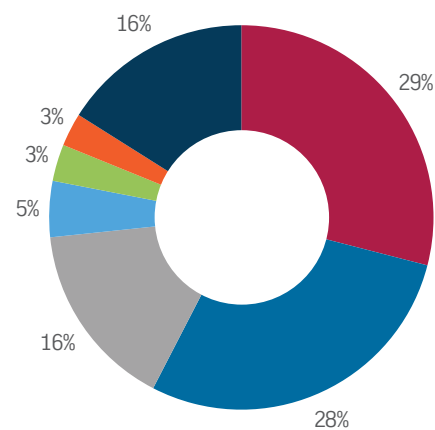


Figure 9. Investigated Complaints by Chapter II of the Constitution – Fundamental Rights and Freedoms

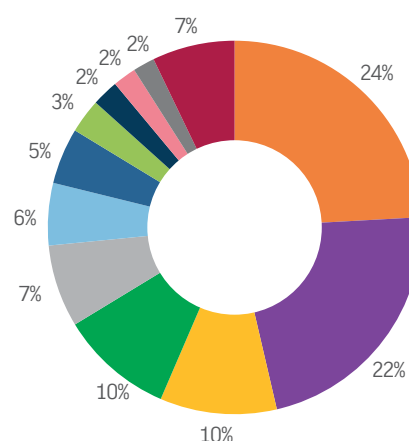


Figure 10. Number of Investigated Complaints by SDGs (a single complaint may include multiple SDGs)

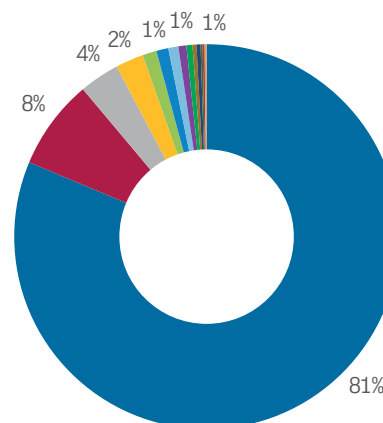


Figure 11. Ex-Officio Investigated Complaints, According to Chapter II of the Constitution – Fundamental Rights and Freedoms

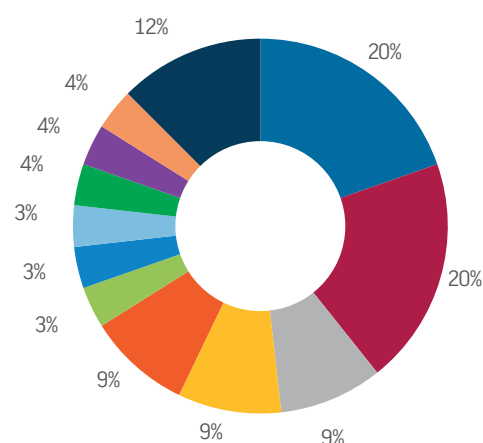


Figure 12. Number of Ex-Officio Cases, by SDGs (a case may involve multiple SDGs)

- Peace, Justice, and Strong Institutions
- Reduced Inequalities
- Partnerships for the Goals
- Affordable and Clean Energy
- Good Health and Well-being
- Quality Education
- Gender Equality
- Clean Water and Sanitation

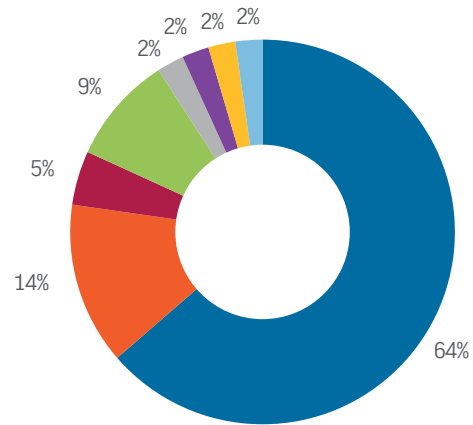


Figure 13. Cases Resolved with Conclusion/ Closure of Investigations (including cases from 2024 and previous years)

- Resolved in Agreement with Complainant's Request
- Inadmissible
- Unpublished Report with Recommendations
- Lack of Interest by the Complainant

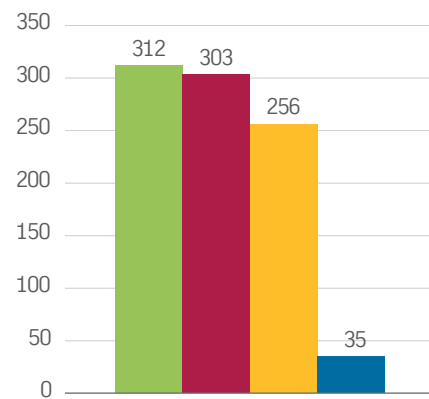


Figure 14. Percentage of Implementation of the Recommendations of the Ombudsperson Published in 2024, by the Responsible Public Authorities

- Implemented recommendations
- Partially Implemented recommendations
- Unimplemented recommendations
- Recommendations pending implementation

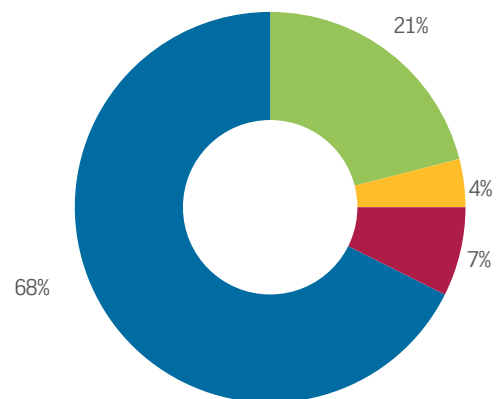


Figure 15. Percentage of Investigated and Inadmissible Complaints by the Department for the Protection of Children's Rights

- Inadmissible complaints **21%**
- Complaints Determined as Admissible for Investigation **79%**

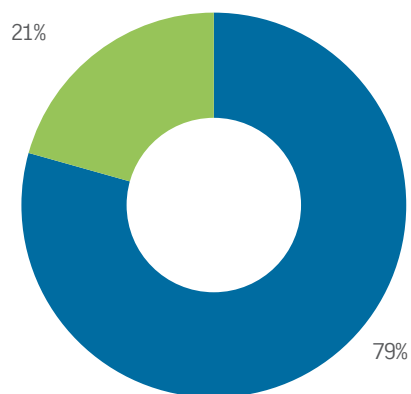
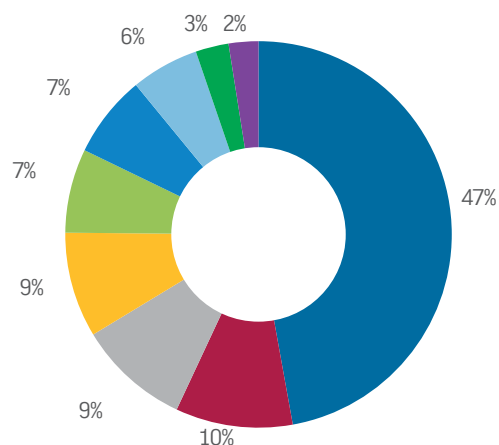


Figure 16. Përqindja e ankesave të paraqitura gjatë vitit 2024, në zyrën qendrore dhe në zyrat rajonale të Institucionit të Avokatit të Popullit

- Central Office – Prishtina
- Regional Office – Prizren
- Regional Office – Gjiilan
- Regional Office – Peja
- Regional Office – Ferizaj
- Regional Office – Gjakova
- Regional Office – Mitrovica South
- Regional Office – Mitrovica North
- Regional Office – Gracanica



The background is a solid blue color with several large, curved, overlapping shapes in lighter shades of blue, creating a dynamic, abstract design. These shapes are primarily located in the upper half of the image, with one large shape curving from the top left towards the center, and another curving from the top right towards the center. A third, more horizontal shape is visible in the middle left area.

Protection of Human Rights by the Ombudsperson

Fundamental Rights

Human Dignity

Human dignity is inviolable and forms the basis of all human rights and fundamental freedoms. Therefore, the state has an obligation to take all necessary measures to protect dignity as well as human rights and freedoms.

During the year 2024, the Ombudsperson received twenty-six (26) complaints alleging violations of human dignity, of which fifteen (15) were processed for further investigation, while eleven (11) were deemed inadmissible. Furthermore, investigations were initiated ex-officio in two cases.

The violation of human dignity is often linked to the infringement of other fundamental rights, and based on the complaints received by the Ombudsperson, it is observed that these often reflect violations at the core of these rights, which are protected by domestic and international legal instruments. These include rights to education, equality before the law, non-discrimination, the right to life, prohibition of torture, the right to privacy, and the rights to employment and the exercise of a profession.

During the year 2024, based on a complaint² received, the Ombudsperson addressed the issue of the failure to cover the costs of prosthetic replacements for war veterans. As a result, in 2024, the Government of the Republic of Kosovo adopted a decision to cover the medical treatment of persons with war veteran status for prosthetic replacement, maintenance, or fitting outside public health institutions, when these institutions do not provide such services. The Ministry of Health (MoH) later issued a decision covering medical treatment only for persons with the

status of members of the KLA. Considering this approach discriminatory and undignified for this category, the Ombudsperson, in December 2024, published a report with recommendations, urging the Government of the Republic of Kosovo to annul the decision issued by the Ministry of Health, while recommending the Ministry of Health to take measures in accordance with Law No. 04/L-054 on the Status and Rights of Martyrs, Invalids, Members of the Kosova Liberation Army, Civilian Victims of War and Their Families, for providing special benefits to war invalids. Regarding the addressed recommendations, the Ombudsperson was informed by the MoH that a decision had been issued obligating the board for medical treatment outside public health institutions to financially cover the medical treatment of war invalids for prosthetic replacement, maintenance, or fitting, as per the applicants' choice.

Also, in October 2024, the Ombudsperson, *ex-officio*³ initiated investigations after media reports that persons over the age of 65 requiring knee or hip prostheses, unlike those under 65, were required to pay for material costs amounting to approximately 700 euros. The Orthopaedic Clinic at the University Clinical Center of Kosovo (UCCCK) justified this decision due to the lack of stable supply with this material. This issue is still under review by the Ombudsperson.

Moreover, in the *ex-officio* Report No. 436/2023⁴ published regarding the respect for human rights during the process of recognizing and verifying the status of victims of sexual violence during the liberation war in Kosovo and the obstacles in realizing the benefits established by law, the Ombudsperson recommended to the Governmental Commission to find the necessary modalities to better organize the interview schedule to ensure the protection of victims' identities and the confidentiality of

2 R/522/2024

3 Ex-officio 1125/2024

4 <https://oik-rks.org/en/2024/10/31/report-of-ombudsperson-ex-officio-no-436-2023-on-the-respect-for-human-rights-in-the-recognition-and-verification-process-of-victims-of-sexual-violence-during-the-kosovo-liberation-war-and-the-obst/>

the procedure and data during the interview process. It also recommended ensuring the respect for the dignity of survivors during the interview process by ensuring a victim-centered approach, treating them humanely, and avoiding re-traumatization or reviving traumatic events.

The Ombudsperson, in *ex-officio* Report No. 521/2022 published in 2023, concerning the legal basis for re-evaluating the status and rights of paraplegic and tetraplegic persons by the Commission for the Evaluation and Determination of Procedures, found that the dignity of paraplegic and tetraplegic persons is primarily violated due to practical difficulties they face when presenting before the Evaluating Commission, especially since the Regulation does not explicitly require the Commission to visit these individuals at their place of residence. Accessibility to public spaces and buildings for persons with disabilities is another concern in this context. The Ombudsperson recommended initiating procedures to amend Law No. 05/L-067 on the Status and Rights of Persons with Paraplegia and Tetraplegia, among other things, by stipulating that the Evaluating Commission may not re-assess persons who have already been recognized as first-group individuals, and re-assessment should only occur in certain cases where the disease is rapidly progressing, thus worsening the person's health condition. Monitoring the implementation of these recommendations continued in 2024, and the Ombudsperson was informed by the Ministry of Finance, Labour, and Transfers (MFLT) that the draft regulation had been processed in accordance with the Ombudsperson's recommendation.

The Ombudsperson, also through the National Mechanism for the Prevention of Torture, conducted unplanned monitoring visits to all institutions holding persons deprived of their liberty, with the aim of overseeing the respect for human rights and ensuring that individuals are treated with dignity.

Regular and systematic visits were also conducted to the Mental Health Centers, Community-Based Homes (CBH), Integrative Community Homes (ICH), and Elderly Homes, with the purpose of supervising the respect and prevention of violations of dignity and human rights.

The Right to Life

The right to life is guaranteed by the Constitution. No one may be deprived of life, as this is an absolute right. Capital punishment is forbidden under any circumstances.⁵

In line with the constitutional norm and as interpreted by the case law of the ECtHR, the state has an obligation to protect life by law, to prohibit intentional deprivation of life, and to fulfill the procedural duty to conduct an effective investigation. The Guide on Article 2 of the ECHR⁶, states: "*The ECHR establishes the right to life. Article 2 contains two fundamental obligations: the general duty to protect the right to life by law and the prohibition of intentional deprivation of life, subject to a list of exceptions. Given its fundamental nature, Article 2 of the Convention also includes the procedural duty to conduct an effective investigation into alleged violations of its substantive limb (Armani Da Silva v. the United Kingdom [GC], 2016, § 229), which prescribes the positive obligation of states to investigate cases of deaths that involve elements of a violation of this article.*"⁷

During the reporting year, the Ombudsperson received seven complaints alleging violations of this right, of which two cases were opened for investigation, while five cases were declared inadmissible. In addition, the Ombudsperson initiated five investigations *ex-officio*.⁸

Case of the Lower Secondary School "Dëshmorët e Kombit" in Livoq i Ulët, Municipality of Gjilan

Following information received from a parent

5 Constitution of the Republic of Kosovo, Article 25

6 https://ks.echr.coe.int/documents/d/echr-ks/guide_art_2_eng

7 European Convention on Human Rights, Article 2

8 R/292/2024, Ex-Officio and R/563/2024, Ex-Officio, R/1380/2024, R/1333/2024, R/1206/2024

that parts of the ceiling plaster had fallen in a classroom of the Lower Secondary School “Dëshmorët e Kombit” in Livoq i Ulët, Municipality of Gjilan, endangering the lives and health of students and school staff, the Ombudsperson initiated an investigation. The Ombudsperson found that the responsible authorities must find a solution to ensure a safe environment for students and staff while at school and must also guarantee effective care for children whose health and well-being are at risk.

In this regard, the Ombudsperson assessed that continuing education in the school building under these conditions poses a risk to the lives, health, and well-being of students and school staff. Therefore, the responsible institutions must prioritize addressing this issue. Consequently, the Ombudsperson recommended that the Municipality of Gjilan take all necessary measures without further delay to ensure that all children have access to a healthy, safe, and suitable school environment that meets the standards for quality education.

Case of the Murder of a 21-Year-Old Woman at the Social Work Center in Ferizaj

The Ombudsperson initiated an *ex-officio* case No. 563/2024 regarding the state’s positive obligations to take preventive measures in Social Work Centers to protect physical integrity, particularly the right to life as an absolute right. This case was initiated based on reports from “Kallxo.com”⁹, dated April 12, 2024, titled: “*The Murder of a 21-Year-Old at the Social Work Center in Ferizaj: What is Known So Far?*” This portal reported that it was a case of homicide, stating that the victim and the perpetrator had been in a de facto marital relationship and had a child together. The investigation focused on assessing whether the responsible authorities had fulfilled their positive obligations to protect the right to life of citizens by examining their actions and

omissions, specifically the implementation of preventive measures as a prerequisite for ensuring the safety of both officials and service recipients at this institution. The Ombudsperson analysed the application of constitutional provisions, international human rights instruments, ECtHR case law, laws, policies, and the national strategy against domestic violence. The Ombudsperson found that municipalities should be equipped with security detectors and physical security guards. Upon completion of the investigation, the Ombudsperson will publish a report with concrete recommendations.

Case of the Murder of Victim H.M. at UCCK and the Murder of Victim S.D. in Dragash

During the reporting year, the Ombudsperson investigated the state’s positive obligations regarding the right to life and protection from domestic violence, specifically concerning the murder of pregnant woman H.M. by her husband on November 30, 2022, in the courtyard of the Gynaecology Clinic at the University Clinical Center of Kosovo (UCCK), despite the existence of a protection order. In addition, the Ombudsperson investigated the murder of S.D., who was beaten to death by her relatives (sister-in-law) on December 26, 2022, in the village of Kuk, Municipality of Dragash.

In the *first case*, the Ombudsperson concluded that this tragic event could have been prevented had the state authorities properly implemented the applicable legislation, specifically if Law No. 05/L-003 on Electronic Supervision of Persons whose Movement is Limited by the Decision of the Court had been enforced. On March 8, 2021, the Ombudsperson had published *Ex-officio* Report No. 621/2018¹⁰ regarding preventive operational measures for the protection of domestic violence victims under Law No. 05/L-003. This report aimed

9 <https://kallxo.com/lajm/vrasja-e-21-vjecares-ne-ferizaj-detaje-nga-vendi-i-ngjarjes/>

10 <https://oik-rks.org/en/2021/03/09/report-with-recommendations-ex-officio-case-no-6212018-in-relation-to-preventive-operational-measures-to-protect-victims-of-domestic-violence-pursuant-to-the-law-no-05l-003-on-the-electronic-su/>

to draw the attention of responsible institutions to the state's positive obligations in protecting domestic violence victims. However, these recommendations had not been implemented until December 10, 2024, when it was announced that the electronic monitoring system for domestic violence offenders had started being used.¹¹

During the investigation of the *second case*, the Ombudsperson observed that the domestic violence victim S.D. faced significant difficulties in accessing healthcare services and finding shelter outside her family due to mental health issues. Consequently, the Ombudsperson initiated an *ex-officio* investigation (Case No. 601/2023) concerning the state's obligations to provide support and mental health services for individuals over 65 years old in Kosovo. The aim was to identify existing challenges and propose concrete recommendations for improving mental health services for individuals over 65, ensuring equal and non-discriminatory access for all.

As a result, the Ombudsperson concluded that the age restriction of 65 years as a criterion for admission to residential institutions constituted a violation of the legal provisions of the Law on Social and Family Services and the Law on Protection from Discrimination. Furthermore, the Ombudsperson found that the lack of secondary legislation under the Mental Health Law hinders its implementation and creates space for discriminatory practices in mental health service provision regarding age restrictions for individuals over 65. In addition, the Ombudsperson noted that besides the absence of secondary legislation, the lack of clear criteria in existing regulations, the annulment of regulations by government decisions instead of issuing new ones¹², and the limitation of legally guaranteed rights through secondary legislation contradict the principles of the rule of law.

Through this report, the Ombudsperson has issued 16 recommendations, advising the relevant authorities on the necessary actions to be taken; therefore, this matter has reached its conclusion.

According to statistics provided by the Kosovo Police, 17 murders occurred in the country during 2024. Considering the reports from the Kosovo Police on the number of murders, the Ombudsperson calls for urgent measures to prevent this phenomenon.

States are obliged to ensure that this right is protected by law and that no one under their jurisdiction is arbitrarily deprived of life.

The Right to Personal Integrity

The right to personal integrity is guaranteed under Article 26 of the Constitution of the Republic of Kosovo. During the reporting year, the Ombudsperson did not receive any complaints regarding violations of this right.

Nevertheless, the Ombudsperson has raised concerns regarding the failure to amend Law No. 05/L-125 on Mental Health and the failure to adopt the Draft Law on Reproductive Health and Medically Assisted Conception.

The Ombudsperson has continued to react concerning the involuntary treatment of persons with chronic psychiatric disorders in psychiatric wards and clinics without a court decision and without adhering to legal deadlines. During visits to the Emergency and Intensive Psychiatric Care Unit (EIPCU), it was found that, even during the reporting year, patients were being involuntarily detained for psychiatric treatment without notifying the competent court. In addition, there were delays in court rulings on cases submitted by the EIPCU to the court¹³.

In addition to the Ombudsperson, the European Committee for the Prevention of Torture (CPT) has also reacted to this situation in its reports on visits to Kosovo in

11 See the link: <https://kallxo.com/lajm/lasohet-sistemi-i-hallkave-per-mbikeqyrje-elektronike-kurti-pa-dyshim-do-ta-reduktoje-shume-dhunen-ne-familje/>

12 Administrative Instruction No. 07/2009 (in Health) on Professional Services of Mental Health in the Republic of Kosovo, which was repealed by the Decision of the Government of the Republic of Kosovo, No. 02/50, dated 23.12.2021

13 <https://oik-rks.org/2018/10/29/raport-me-rekomandime-lidhur-me-viziten-ne-kliniken-psikiatrike-ne-qkuk/>

2007, 2010, and 2015, and most recently in its report on the visit to Kosovo published in September 2021.¹⁴

In all these reports, as the Ombudsperson has noted, there is a lack of harmonization and non-implementation of the legal provisions of Law No. 03/L-007 on Non-Contested Procedure (Articles 75 to 96) and the legal provisions of Law No. 05/L-025 on Mental Health (Articles 20 to 24).

The Ombudsperson considers it essential for the responsible authorities to take all necessary measures to address this issue, as it constitutes a violation of fundamental human rights and freedoms.

Freedom of Movement

The Constitution of the Republic of Kosovo, in Article 35, guarantees the right to freedom of movement¹⁵, ensuring that all residents of the state can travel freely within the country and beyond its borders, without restrictions or unlawful interference. The right of foreigners to enter and reside in the Republic of Kosovo is regulated by law.

The legislation of the Republic of Kosovo¹⁶, provides for free movement within the state, travel abroad, immigration, and repatriation. Responsible institutions are obliged to take all necessary measures to ensure freedom of movement for all citizens of Kosovo, without any discrimination or unlawful restrictions. However, freedom of movement is not absolute and is subject to certain limitations established by law.

According to Article 2 of Protocol No. 4 of ECHR¹⁷, restrictions on freedom of movement are permitted under similar conditions as provided in Articles 8 to 11 of the ECHR. These restrictions must: be in accordance

with the law; be necessary in a democratic society for specific purposes, namely: in the interest of national security, public safety, and public order; for the prevention of crime; for the protection of health and morals; for the protection of the rights and freedoms of others.

The Ombudsperson has registered three complaints related to the right to freedom of movement. Two complaints were declared inadmissible as the issues raised did not fall within the Ombudsperson's jurisdiction.¹⁸ Regarding the third complaint¹⁹, an investigation was conducted based on the complainant's claim that their freedom of movement was violated by being denied entry into the Republic of Kosovo by the competent authorities. The investigation concluded in accordance with Article 22, paragraph 1, subparagraph 1.4, given that when parties fail to exhaust available legal remedies under applicable legislation, the Ombudsperson may refuse to handle the complaint. Specifically, the Ombudsperson may reject a complaint if "*all regular and extraordinary legal remedies have not been exhausted by the party.*" In this case, the Ombudsperson emphasized that the right to freedom of movement is not absolute and may be restricted only for legitimate reasons such as the protection of national security, public order, crime prevention, and the protection of the rights of others. However, it is essential that any restrictions are justified, legally grounded, and ensure a proper balance between individual freedom and public security while respecting citizens' rights.

The Ombudsperson concludes that, in general, the right to freedom of movement

14 [https://www.coe.int/en/web/cpt/kosovo/-/asset_publisher/WsovygSd8qFK/content/council-of-europe-anti-torture-committee-publishes-report-on-kosovo-](https://www.coe.int/en/web/cpt/kosovo/-/asset_publisher/WsovygSd8qFK/content/council-of-europe-anti-torture-committee-publishes-report-on-kosovo)

15 Constitution of the Republic of Kosovo, Article 35

16 Law No. 04/L-215 on Citizenship of Kosovo, Law No. 02/L-121 on Dwelling and Emplacement, Law No. 05/L-015 on Identity Cards, and Law No. 06/L-036 on Amending and Supplementing Law No. 04/L-219 on Foreigners

17 <https://www.coe.int/sq/web/echr-toolkit/protocole-4>

18 R/826/2024 and R/1426/2024

19 R/486/2024

is respected in the Republic of Kosovo. However, delays have been noted in the processing and response times for applications for temporary/permanent residence permits in the Republic of Kosovo.

Protection of Property

The right to property is protected by the Constitution of the Republic of Kosovo and international instruments in accordance with Article 22 of the Constitution. During the reporting year, the Ombudsperson received complaints and also initiated cases *ex-officio* regarding violations of the right to property.

One of the key issues that the Ombudsperson focused on was the expropriation process of property owners' lands in the municipalities of Zubin Potok and Leposaviq. In this regard, the Ombudsperson initiated a case *ex-officio* and also received several complaints from property owners undergoing the expropriation process, closely monitoring the procedural developments related to the expropriation mentioned above.

As part of its activities, the Ombudsperson not only engaged in communications and requested detailed information from the institutions of the Republic of Kosovo responsible for carrying out the expropriation procedure but also held meetings with several residents of these areas to hear their concerns regarding this issue. Upon completing the investigation in this case, the Ombudsperson published an *Opinion on the expropriation procedure in the municipalities of Leposaviq and Zubin Potok*, which was subsequently addressed to the Prime Minister of the Republic of Kosovo.

Through this Opinion, the Ombudsperson presented a general stance on the expropriation process in light of constitutional and legal guarantees concerning the protection of property rights. The Ombudsper-

son assessed that the institutions of the Republic of Kosovo, according to the Constitution, have the authority to carry out the expropriation process, provided that such expropriation is legally authorized, necessary, or suitable for achieving public objectives or promoting the public interest. The Ombudsperson emphasized that while expropriation itself cannot be contested, procedural actions must comply with the provisions of the Law on Expropriation of Immovable Property.

Complainants stated that they were aware that these actions by the Government were related to general security issues (the construction of a police station), even though this was not explicitly stated in the decisions issued within the expropriation procedure. The Ombudsperson considers that general security issues inherently satisfy the requirement of a legitimate purpose, which is a fundamental condition for initiating the expropriation process.

During the reporting year, the Ombudsperson also investigated several complaints submitted earlier by complainants from the Municipality of Viti, whose properties were transferred to the territory of the Republic of North Macedonia as a result of the Ratification of the Agreement on the physical demarcation of the border between the Republic of Kosovo and the Republic of North Macedonia²⁰. During the reporting year, the Ombudsperson also investigated several complaints submitted earlier by complainants from the Municipality of Viti, whose properties were transferred to the territory of the Republic of North Macedonia as a result of the Ratification of the Agreement on the physical demarcation of the border between the Republic of Kosovo and the Republic of North Macedonia.

Moreover, during the reporting year, the Ombudsperson received a significant number of complaints regarding delays

²⁰ The Decision of the Assembly of the Republic of Kosovo, by which the agreement between the Republic of Kosovo and the Republic of North Macedonia was ratified, No. 03-V-203, dated October 17, 2009

in judicial proceedings concerning property protection or obstruction of possession. Regarding these matters, the Ombudsperson engaged in communications with the courts of the Republic of Kosovo, which responded that they were awaiting the judicial proceedings to be carried out according to the plans approved by the Kosovo Judicial Council (KJC). Despite all measures taken, the continued delays in judicial proceedings and the failure of the justice system to ensure the right to a fair trial within a reasonable timeframe remain concerning.

With the aim of further promoting women's property rights, on November 20, 2024, the Ombudsperson organized a roundtable discussion and invited field experts to raise significant issues that will have a positive impact on women's property rights.

The Issue of Legalization of Buildings

In 2023, the Ombudsperson initiated investigations *ex-officio*²¹ regarding the process of legalization of unauthorized buildings, whose construction has been completed, and its impact on human rights, particularly on the unimpeded enjoyment of property rights. The issue is being addressed in the context of analysing the factors affecting the delay in the processing of legalization requests by municipalities, including the lack of human resources, the lack of professional preparation for handling the matter, and legal obstacles. The investigation also aims to assess the challenges faced by municipalities in developing the legalization procedure for buildings, including administrative, legal, and financial obstacles. An important aspect of the investigation includes a comparative analysis of the legal requirements for the legalization of buildings and the changes in the tax rates that were in effect before and after the adoption of Law no. 06/L-024 on the Treatment of Constructions Without Permit.

According to the information received by the Ombudsperson from the Ministry

of Environment, Spatial Planning, and Infrastructure (MESPI), the total number of applications received for the legalization of unauthorized buildings, up to 2023 at the national level, is 27,301. By 2023, 11,191 legalization decisions were issued, and 6,279 are on the waiting list. Meanwhile, the buildings registered in the cadastre are 8,601. Data for 2024 has not yet been updated by the MESPI. Furthermore, according to MESPI data, the number of complaints received by this institution against municipal decisions on the legalization of buildings over the years is as follows: 18 complaints in 2020, 27 complaints in 2021, 32 complaints in 2022, 21 complaints in 2023, and 16 complaints in 2024.

The available data indicates that the process of legalizing unauthorized buildings in the country continues at a slow pace, as reflected in the total number of applications and legalized buildings. This demonstrates the delays and challenges still faced by municipalities and responsible authorities, which struggle to complete this process as efficiently as possible. These delays and challenges in the legalization process of unauthorized buildings have a direct impact on the limitation of the exercise of property rights. Buildings that have not yet been legalized cannot be registered in the property records in the cadastre, which prevents owners from fully exercising their rights, such as selling, mortgaging, or enjoying other property benefits.

Copyright and Intellectual Property Rights

Copyright and intellectual property rights are fundamental aspects of protecting intellectual creativity and serve as a fundamental right for safeguarding artistic works. According to the Constitution of Kosovo, property is guaranteed as a fundamental right for every citizen. Article 46, paragraph 5, explicitly states: "*Intellectual property is protected by law.*"

In addition, copyright is safeguarded by

21 Ex-officio case 253/2023

Law No. 08/L-205 on Copyright and Related Rights, which was adopted in 2023. This law also regulates the activities of the Office for Copyright and Related Rights, operating under the Ministry of Culture. Among other responsibilities, this office is tasked with developing and implementing adequate strategies and policies for copyright protection, leading and coordinating the Anti-Piracy Task Force, and promoting public awareness regarding the importance of copyright protection.

Regarding copyright-related issues, the Ombudsperson Institution (OI) did not receive any complaints in 2024 regarding alleged violations of this right.

According to the 2024 Kosovo Progress Report, Kosovo has made progress in aligning national legislation with that of the European Union in the field of copyright and intellectual property rights. Regarding the adoption of the new law on copyright and related rights, the report states that: *“The adopted law aims to align Kosovo’s legislation with EU Directives on the collective management of copyright and related rights and the multi-territorial licensing of rights in musical works for online use in the domestic market and for copyright and related rights in the Single Digital Market.”*²²

A review of the official website of the Commercial Court of Kosovo²³, shows that during 2024, the court, in both the First Instance Chambers and the Second Instance Chamber, has reviewed and published 12 judgments concerning claims of copyright and related rights violations. The 2024 Progress Report for the country further emphasizes that: *“The Commercial Court, which specializes in commercial matters and has the mandate to resolve cases and disputes in the field of industrial property rights and copyright, has proven to*

*be efficient in case processing.”*²⁴

Meanwhile, intellectual property, which includes rights over creations and inventions, is regulated according to Law No. 08/L-059 on Patents and Law No. 08/L-075 on Trademarks. According to the applicable legislation, the Industrial Property Agency, as a body within the Ministry of Trade and Industry, is responsible for the legal protection of inventions, trademarks, industrial designs, designations of origin, geographical indications, and topographies of integrated circuits, as well as other matters arising from international agreements to which the Republic of Kosovo is a signatory.

Although the 2024 Annual Report of the Industrial Property Agency²⁵, as presented some progress, such as an increase in the number of examinations and a reduction in registration time, strengthening of staff capacities, and digitalization of services, the 2024 Kosovo Progress Report highlights the need for restructuring and increasing the staff of the agency to improve the administration of industrial property rights. The report also emphasizes the need for enhancing the enforcement of the applicable legislation, adopting the necessary legislation for the implementation of industrial property laws, and strengthening cooperation with the European Union Intellectual Property Office.²⁶

Regarding the complaints received by the OI during 2024²⁷, none were directly related to copyright or intellectual property rights violations but were instead linked to the change of designation for the use of municipal property in the Municipality of Fushë Kosovë, a complaint submitted by the Chairman of the Organization for the Cultivation of Albanian Cultural Traditions, and the leasing of several public buildings in the territory of the Municipality of Shtërpçë.

22 <https://kryeministri.rks-gov.net/wp-content/uploads/2024/12/Kosovo-2024-Report.pdf>, p. 66

23 <https://komerciale.gjyqesori-rks.org/verdicts/?lang=en&courtId=40&judgeStatus=1>

24 <https://kryeministri.rks-gov.net/wp-content/uploads/2024/12/Kosovo-2024-Report-SQ.pdf>, p. 67

25 <https://kipa.rks-gov.net/Page.aspx?id=1,10,197>

26 <https://kryeministri.rks-gov.net/wp-content/uploads/2024/12/Kosovo-2024-Report-SQ.pdf>, p. 12 and 66

27 R. No. 1153/2024 and R. No. 1043/2024

The Right to Liberty and Security

The right to liberty and security is guaranteed by the Constitution of the Republic of Kosovo²⁸, as well as other international instruments, such as the International Covenant on Civil and Political Rights²⁹ and the European Convention on Human Rights.³⁰

Moreover, the European Court of Human Rights ranks this right as one of the fundamental rights, and Article 5 of the European Convention on Human Rights establishes the importance of preventing and protecting individuals from arbitrary and unjustified deprivation of liberty.

The Ombudsperson, through the National Mechanism for the Prevention of Torture (NPM), regularly visits, without prior notice, places where persons deprived of liberty are held, with the aim of assessing the respect for human rights, opening complaint boxes, and conducting interviews with detained persons. In general, this right is respected in the Republic of Kosovo, where capacities and standards have been established to guarantee oversight of cases involving deprivation of liberty, detention, and punishment or any form of detention in correctional and educational centers in the Republic of Kosovo.

The Ombudsperson, through the NPM, continuously monitors detention facilities where persons with mental illnesses are held and treated, persons detained for illegal entry into the Republic of Kosovo, and reports findings in reports prepared after visits.

During the reporting year, the complaints received mostly concern the use of force during detention and arrest. Each reported case to the Ombudsperson has been investigated, and no instance of excessive use of force has been found.

All cases of deprivation of liberty by detention and pre-trial detention of citizens from the

Serbian community, when information was available, have been visited by the NPM, and interviews were conducted to ensure that the rights guaranteed by the Constitution are respected.

The Ombudsperson reiterates the obligation of the responsible authorities to ensure the safety of individuals under their care and their obligation to undertake effective and independent investigative actions to clarify cases.

The Right to a Fair and Impartial Trial

The right to a fair and impartial trial is a key indicator of the rule of law and the protection of fundamental human rights. It reflects the level of justice and equality within a judicial system and is closely related to public trust in the justice institutions. As a special indicator, this right serves to measure the integrity and impartiality of the courts and guarantees every individual a fair trial process, free from external influences. This right is guaranteed through the independence of the courts and judges, equality before the law for all citizens, transparency, public access, effective legal protection, and the right to be tried within a reasonable time.

The right to a fair and impartial trial is guaranteed by the Constitution, in Articles 31 and 6 of the ECHR [Right to a Fair Trial]. Under constitutional guarantees, the right to a fair and impartial trial in our country is also regulated by other basic laws.

The right to a fair and impartial trial is not limited to the judicial field but also extends to administrative processes, thus also covering state administration bodies. This right includes the treatment of citizens' cases by state administrative bodies (e.g., ministries, agencies, or other public authorities), ensuring that citizens are treated fairly and impartially by these administrative bodies, and their ability to exercise the right of appeal or challenge any decision that may

28 Constitution of the Republic of Kosovo, Article 29

29 International Covenant on Civil and Political Rights, article 9

30 European Convention on Human Rights, Article 5

affect their rights.

In the reporting year, the Ombudsperson published 47 reports with recommendations, in which it was found that the complainants' right to a fair trial and the right to a regular process within a reasonable time frame had been violated.

The Ombudsperson appreciates the drafting of the Strategic Plan for improving access to justice³¹. However, considering the high number of complaints it continues to receive, this indicates that the situation has not significantly improved.

A concerning fact remains that there has been no appropriate approach from the competent authorities to advance the legal initiative for the creation of a legal mechanism, through which complainants could have appealed for delays in the procedure, in order to achieve any form of relief in terms of prevention or compensation, as recommended by the Ombudsperson back in 2018.³² This can also be seen as a lack of effective means for appeal in cases of delays in judicial procedures. The Ombudsperson views this as a violation of the rule of law when there is no procedure in place for appeals in cases of delays in judicial procedures.

The Ombudsperson is concerned about the statements and criticisms made against the judiciary (courts and prosecutions) by representatives of the Government, members of the Assembly, various interest groups, NGOs, and the media. The Ombudsperson considers their daily pronouncements regarding cases being handled by courts and prosecutions, judicial decisions, the performance of judges and prosecutors, or their inaction, as interference in the justice system. This interference severely undermines the independence of the judiciary and results in a loss of public trust in the justice system.

The Ombudsperson emphasizes that, ac-

cording to the Constitution and international standards, the independence of the judiciary, as a separate branch from the executive and legislative branches, is one of the key components of the rule of law. In this regard, our country has undertaken international obligations to respect human rights and freedoms and to ensure the independence of the courts from external interference, with decision-making based on the law and free from pressure, which is essential to protect these rights and guarantee equality before the law for all citizens.

Of the 300 complaints filed by citizens regarding delays in judicial procedures, the Ombudsperson has opened investigations into 120 of them, while the others were rejected as inadmissible because they did not meet the procedural conditions for investigation and were outside the Ombudsperson's jurisdiction.

The Ombudsperson, in its role as an independent institution, with the aim of improving human rights in judicial procedures, has a special competence to provide general recommendations for the functioning of the judicial system, without interfering in cases or procedures before the courts.

Observing the complaints over the years, the Ombudsperson considers that issues such as (i) the right to a timely trial; (ii) the right of the accused to defence; (iii) the criteria for determining pre-trial detention and alternative sentences; (iv) the acceptance of guilt in criminal proceedings; and (v) the treatment of persons with mental disorders, require special attention from the responsible institutions.

Regarding the issue of the right to a fair and impartial trial, the Ombudsperson, seeing this issue affecting the trial of cases in

31 https://www.gjyqesori-rks.org/wp-content/uploads/2022/11/KGJK_Plani_strategjik_per_permiresimin_qasjes_ne_drejttesi_2022_2025_lidhur_me_efikasitetin_dhe_prioritizimin_lendeve_brenda_sistemit_gjyqesor.pdf

32 <https://oik-rks.org/en/2018/03/06/report-with-recommendations-ex-officio-1292018-effective-solution-of-delays-of-judicial-proceedings-violation-of-the-right-on-trial-within-reasonable-time/>

Kosovo, recommended to the Assembly of Kosovo in 2018 the enactment of the relevant law to define effective legal remedies for compensation in cases of violations of judicial rights within a reasonable time. The Ombudsperson reminds that, just as it treats cases presented before the OI, when assessing the “reasonableness” of the duration of judicial proceedings according to the ECHR, it should be evaluated in light of the circumstances of the case, based on four fundamental aspects: (i) the complexity of the case; (ii) the conduct of the parties in the procedure; (iii) the behaviour of the competent court or other public authorities; and (iv) the importance of what the party risks in the dispute.

Regarding the right of the accused to defence, the Ombudsperson reminds that in its Opinion A.no. 230/2023, regarding the right of the defendant to be defended with the assistance of counsel, it emphasized that according to the Constitution of the Republic of Kosovo, the accused is allowed to communicate freely with their defender. The Ombudsperson points out that the ECHR defines the relevant principles and emphasizes in the case of *Salduz v. Turkey* (judgment of November 27, 2008, paragraph 55) that, in order for the right to a fair trial to be sufficiently “practical and effective,” Article 6, paragraph 1 of the ECHR requires that, as a rule, “contact with a lawyer must be ensured from the moment of questioning by the police of a suspect, unless there are compelling reasons, according to the specific circumstances of a case, to limit this right.” Even where such compelling reasons might justify the exclusion of contact with a lawyer, this limitation – whatever the justification – should not prejudice the rights of the accused under Article 6 of the ECHR. The rights of defence, in principle, are irreversibly prejudiced when incriminating statements made during police questioning without the presence of a lawyer are used for conviction.

As for the criteria for determining pre-trial detention and alternative sentences, the Ombudsperson emphasizes that according

to the practice of the ECHR, there are three key criteria that must be examined to assess whether the deprivation of liberty is lawful and not arbitrary: (i) firstly, there must be a “reasonable suspicion” that a person deprived of liberty has committed a criminal offense (see ECHR case *Merabishvili v. Georgia*, [DHM], Judgment of November 28, 2017, paragraph 184); (ii) the purpose of deprivation of liberty “must primarily be for the purpose of conducting the criminal procedure” (see *Ostendorf v. Germany*, Judgment of March 7, 2013, paragraph 68) and moreover, it must be proportional, meaning it must be necessary “to ensure the appearance of the affected person before the competent authorities” (see *Merabishvili v. Georgia*, paragraph 185); (iii) deprivation of liberty or the imposition of pre-trial detention must be carried out following the procedure established by law (see *Merabishvili v. Georgia*, paragraph 186).

The Ombudsperson, referring to the OSCE report (see the Monitoring Report)³³, observed from the statistics of monitored cases that there is a high number of persons who are in pre-trial detention. Consequently, the Ombudsperson considers that the reasons for imposing pre-trial detention should be considered in terms of the appropriateness of its imposition, especially in cases where we deal with “reasonable suspicion” and “purpose of conducting the criminal procedure.”

The Ombudsperson also considers that alternative sentences are provided under European standards and legislation, to avoid the deprivation of liberty through imprisonment for perpetrators of minor criminal offenses, to humanize sentences by enabling rehabilitation without focusing solely on punishment, while also allowing the state to monitor the offenders with the necessary infrastructure, without overcrowding prisons or incurring high costs for maintaining individuals in prison. In the case of *Torreggiani et al. v. Italy*, the ECHR ruled that “to make alternative sentences credible as opposed to short-term imprisonment, it is necessary to

33 <https://www.osce.org/files/f/documents/b/e/556428.pdf>

ensure their effective implementation, [...].”

In relation to the admission of guilt in criminal proceedings, the Ombudsperson notes that the European Court of Human Rights (ECtHR) has established that the effect of a plea agreement in criminal procedure essentially constitutes a waiver of a series of procedural rights (see *Navalnyy and Ofitserov v. Russia*, 2016, paragraph 100). However, any decision to accept the plea agreement must be accompanied by the following conditions: (i) the agreement must be accepted with full knowledge of the facts of the case and its legal consequences, and in a truly voluntary manner; (ii) the content of the agreement and the fairness of how it was reached between the parties must undergo sufficient judicial review (*Natsvlashvili and Togonidze v. Georgia*, 2014, paragraphs 91-92). The Ombudsperson considers it essential that the defendant be fully and accurately informed of all possible consequences of accepting the plea, and when this agreement is reviewed by the court, it must ensure that procedural standards are respected both by public authorities and the party's lawyer.

Finally, regarding the treatment of persons with mental disorders, the Ombudsperson emphasizes the lack of clarity regarding the legal provisions governing the involuntary admission and treatment of patients in psychiatric institutions. It is particularly concerning that, in practice, courts are still not involved in the procedures for involuntary admission. The identified issue in practice is the implementation of safeguards outlined in the Law on Non-Contested Procedure concerning involuntary detention, the proposal for the appointment of a legal representative, and the protection of rights guaranteed by law. This is especially noted with the proposal to appoint a legal representative from the ranks of lawyers to protect the patient's interests, as stipulated by the Law on Mental Health, specifically Article 21, paragraphs 1.2 and 1.3, and Article 85 of the Law on Non-Contested Procedure.

Disciplinary Liability of Judges and Prosecutors

According to Law No. 06/L-057 on the Disciplinary Liability of Judges and Prosecutors, the Ombudsperson receives complaints against judges and prosecutors, has the competence to forward complaints received from citizens against a judge or prosecutor to the competent authority, the competence to request the Kosovo Judicial Council and the Kosovo Prosecutorial Council to initiate disciplinary proceedings, and the competence to file an appeal with the Supreme Court in cases specified by law.

During the reporting year, the Ombudsperson received 12 complaints. After reviewing these complaints, 8 were deemed inadmissible, as their content indicated that they were submitted due to the parties' dissatisfaction with judicial decisions rather than for the purpose of initiating disciplinary proceedings against judges and prosecutors. Meanwhile, in accordance with the Law on the Disciplinary Liability of Judges and Prosecutors, the Ombudsperson forwarded two complaints to the competent authority, received decisions within the legally prescribed timeframe, and informed the complainants accordingly. Two other cases were also referred to the competent authorities and are currently under investigation for further action.

The Right to Legal Remedies

The right to legal remedies is guaranteed under Article 32 of the Constitution of the Republic of Kosovo, which provides that *“Every person has the right to pursue legal remedies against judicial and administrative decisions which infringe on his/her rights or interests, in the manner provided by law.”*³⁴

Article 13 of ECHR further expands the scope of protection by emphasizing the right to an effective remedy, stating that *“Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority, notwithstanding that the violation has been committed by persons acting in an official capacity.”*

³⁴ Constitution of the Republic of Kosovo, Article 32

Every citizen has the right to utilize legal remedies against any decision issued by state public authorities. The use of legal remedies serves as an important mechanism for public authorities to review their decisions, correct any errors or omissions that may have occurred during various proceedings, and prevent injustices, abuse of power, and violations of the rule of law. The establishment of legal remedies and statutory deadlines ensures fairness and accountability within the legal system.

One of the ongoing challenges in the judicial system remains the implementation of standards for fundamental human rights and freedoms, as outlined in Article 53 of the Constitution. This article mandates that the interpretation of these rights must be in accordance with the case law of the European Court of Human Rights (ECtHR).

However, domestic courts continue to make limited references to ECtHR jurisprudence in their reasoning of decisions.

Under Article 6, paragraph 1, of the ECHR, it is established that “[...], everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.” In addition to the fundamental requirement that a court be established by law – intended to prevent the judicial system from being organized on unstable and unpredictable grounds – the court must also be independent and impartial. Beyond these institutional guarantees, procedural safeguards include the effectiveness, fairness, and transparency of judicial proceedings. Citizens of the Republic of Kosovo continue to face challenges within the judicial system, particularly regarding the excessive length and delays in court proceedings.

During the reporting year, the Ombudsperson received 254 complaints alleging violations of the right to legal remedies due to failure to respond within the prescribed time limits to submitted appeals, of which 118 were opened for investigation.

An analysis of these cases³⁵ indicates that, in relation to judicial proceedings, this right is primarily infringed due to the excessive duration (delays) of case reviews, which undermines the right to an effective remedy. Regarding administrative proceedings, the most frequent violation stems from administrative silence (lack of response), which results in the failure to meet legitimate expectations despite the legal obligation to conclude administrative procedures within the deadlines established by Law No. 05/L-031 on General Administrative Procedure.³⁶

The Ombudsperson has consistently raised concerns about systematic human rights violations, particularly regarding prolonged judicial proceedings and the failure of public authorities to fulfil their obligation to respond to requests in administrative procedures. Furthermore, the Ombudsperson has urged the competent authorities to take all necessary measures to address these issues, emphasizing that a coordinated strategy is essential for a sustainable resolution.

The Right to Privacy

In an era where information and personal data shape many aspects of daily life, the protection of privacy has become a key issue in safeguarding individual dignity and freedom. The right to privacy encompasses the right to private life, family life, the inviolability of the home, the confidentiality of correspondence, telephony, and other communications. In our country, this right is guaranteed by the Constitution, specifically in Article 36, which states that the

35 R/2/2024, R/54/2024, R/86/2024, R/94/2024, R/96/2024, R/121/2024, R/124/2024, R/126/2024, R/176/2024, R/178/2024, R/185/2024, R/200/2024, R/216/2024, R/231/2024, R/234/2024, R/244/2024, R/244/2024, R/271/2024, R/274/2024, R/291/2024, R/295/2024, [...]

36 Article 98 “An administrative proceeding, instituted upon request, shall be terminated as soon as possible, but no later than within the deadline established by law for that type of proceeding. 2. . In case the special law provides no deadline, as provided under paragraph 1. of this Article, the general deadline applicable to the conclusion of administrative proceedings shall be forty five (45) days from the date of its institution.”

collection, storage, access, correction, and use of personal data are regulated by law. Law No. 06/L-082 on the Protection of Personal Data (LPPD) clearly defines the purpose and principles of processing personal data. This law establishes rights, responsibilities, principles, and punitive measures related to the protection of personal data and individual privacy. The right to privacy is also guaranteed by the European Convention on Human Rights (ECHR).³⁷

Regarding the right to privacy and allegations of its violation, during 2024, the Ombudsperson registered eight cases. Of these, seven were individual complaints, while one case was initiated *ex-officio*. Out of the seven individual complaints, five were declared inadmissible for the following reasons:

- Two complaints were declared inadmissible because, based on the submitted evidence and case circumstances, it was determined that no human rights violations or misadministration had occurred;
- One complaint was declared inadmissible because the submission was incomplete and remained uncompleted despite the Ombudsperson's requests;
- Two complaints were declared inadmissible because, based on the submitted evidence and case circumstances, it was determined that the raised issue did not fall within the Ombudsperson's jurisdiction under the Law on the Ombudsperson.

One of the individual complaints under investigation concerns alleged privacy violations related to the publication of asset declarations of family members of public officials. The investigation into this matter is still ongoing.³⁸

The other case under investigation involves alleged privacy violations due to a request made by authorized officers of the Kosovo

Police, following the authorization of the Basic Prosecution in Peja, to seize the complainant's phone while the complainant was in detention in Mitrovica and under investigation for a criminal offense under Kosovo's legislation. The investigation into this matter is also ongoing.³⁹

Meanwhile, the *ex-officio* case pertains to the impact of artificial intelligence on human rights, and the investigation into this issue is still ongoing.⁴⁰

The Ombudsperson emphasizes that the protection of the right to privacy and the security of personal data are crucial for ensuring individual dignity and freedom. While the Constitution and laws provide strong guarantees and protection, their implementation remains essential to ensure that individuals' rights are not violated by unauthorized interference. Any restrictions on privacy must always be lawful, justified, proportional, and in accordance with the public interest.

At a roundtable organized by the Ombudsperson in the municipality of Shtërpçë on June 26, 2024, participants raised concerns about a case in which public authorities published lists of beneficiaries of social assistance, including personal data and medical diagnoses of the beneficiaries. The Ombudsperson assessed this issue as troubling and is currently investigating the case.

On December 10, 2024, the Ombudsperson participated in the conference "Human Rights in the Age of Artificial Intelligence", organized by the Agency for Information and Privacy, in cooperation with the Institute for Technology and Society. The conference discussed the impact of AI on human rights, highlighting the role of public institutions in adapting to modern technologies for transparent and accountable governance. The discussions also focused on AI's influence on digital rights and the challenges of misinformation and inaccurate data in AI systems. The need to integrate privacy principles from the early stages of technological development was

37 ECHR, Article 8

38 R/438/2024

39 R/1418/2024

40 R/932/2024

emphasized, along with the importance of inter-institutional cooperation to raise public awareness about the challenges and opportunities presented by AI.

On December 19, 2024, the Ombudsperson participated in the regional seminar “Digital Horizons: Data Protection in the Age of Innovation”, organized by the Albanian Helsinki Committee and its regional partners, in collaboration with the Western Balkans Fund and the European Union. The seminar addressed the protection of personal data in the digitalization of public administration, the need for equal access to online public services, and public awareness about the importance of personal data protection.

The Ombudsperson notes that during 2024, the Agency for Information and Privacy (AIP), as the competent institution for implementing the law on personal data protection, addressed and handled issues related to this right. AIP also conducted activities aimed at informing public and private institutions, as well as the general public.⁴¹ The Ombudsperson acknowledges that, while there have been improvements in the overall state of privacy rights and personal data protection, much work remains to be done to enhance the understanding of this fundamental right.

The Right to Marriage and Family

The Constitution protects and guarantees the right to marriage and family, stating that, based on free consent, everyone enjoys the right to marry and the right to create a family in accordance with the law.⁴²

Furthermore, the Constitution stipulates that marriage and its dissolution are regulated by law and are based on the equality of spouses.⁴³ In addition, the Constitution guarantees that the family enjoys special protection from the state, as regulated by law.⁴⁴

During this year, the Ombudsperson received 22 complaints related to the right to marriage and family. Of this number, 12 were declared inadmissible because the matters they concerned were outside the jurisdiction of the Ombudsperson Institution, did not involve human rights violations, or the complainants had the opportunity to use or were already using legal remedies. Meanwhile, 10 complaints were processed for further investigation.

Based on the analysis of cases submitted to the Ombudsperson Institution, the complaints were related to: the murder of a woman at the Center for Social Work in Ferizaj⁴⁵; the issue of creating facilities for single parents in raising children and ensuring a dignified life⁴⁶; threats made by an ex-husband against his ex-wife during contact with their child at the Center for Social Work⁴⁷; delays in the adoption process⁴⁸; the unlawful taking of a child by the ex-husband⁴⁹; child custody issues⁵⁰; temporary residence permits⁵¹, divorce⁵², custody, and alimony matters.⁵³

In the context of the right to marriage and family, and after investigating cases during the reporting year, it is clear that one of the main issues remains the realization

41 <https://aip.rks-gov.net/en/personal-data-protection-week-agjencia-per-informim-dhe-privatesi-permbyll-javen-e-aktiviteteve-per-shenimin-e-dites-nderkombetare-te-mbrojtjes-se-te-dhenave-personale/>

42 Constitution, Article 37, paragraph 1

43 Constitution, Article 37, paragraph 2

44 Constitution, Article 37, paragraph 3

45 Ex-officio no. 563/2024

46 Ex-officio no. 610/2024

47 Complaint no. 762/2024

48 Complaint no. 1239/2024 and Complaint no. 1091/2024

49 Complaint no. 33/2024

50 Complaint no. 144/2024

51 Complaint no. 1350

52 Complaint no. 1329

53 Complaint no. 560/2024

of contact between children and parents living separately. This problem, often accompanied by the breakdown and deterioration of interpersonal relationships between ex-spouses, has created significant obstacles for the parent who does not live with the children. Often, one parent is denied contact with the children by the other, causing psychological harm to the children and worsening the process of developing healthy relationships between them and their parents.

Regarding cases initiated *ex-officio*, the Ombudsperson launched official investigations into the issue of creating facilities for single parents, particularly in the context of raising children and ensuring a dignified life. The role of a single parent is multifaceted and requires continuous efforts to ensure that children grow and develop in a safe, healthy, and supportive environment despite limited economic opportunities. Therefore, the Ombudsperson is in the process of analysing relevant legal provisions on this issue and gathering necessary information from state institutions to assess what benefits are currently provided to single parents. Depending on the findings, an initiative may be proposed to offer benefits for single parents.⁵⁴

Triggered by the tragic case of the murder of a woman, a victim of domestic violence, killed by her husband inside the premises of the Center for Social Work, the Ombudsperson initiated official investigations into security conditions during the handling of parties at the Centers for Social Work, with a particular focus on ensuring parental contact with their children. The security of these centers in facilitating contacts between parties is a crucial aspect, especially when it involves child-parent meetings and situations that may include separation or other complex family circumstances. These centers often provide services for

monitoring visits, supervising child-parent meetings, and ensuring the well-being of children during such interactions. Therefore, the Ombudsperson is currently investigating and gathering information from the Centers for Social Work regarding security measures during the handling of parties within their premises.⁵⁵

The Ombudsperson welcomed the adoption of Law No. 08/L-255 on Social and Family Services, which aims to regulate social and family services for persons and families in need, as well as to define the duties and responsibilities of public and private institutions providing these services. The adoption of this law is an important step towards social services reform, focusing on the development of family and community-based services, the expansion of protection forms, and the development of family housing for youth over the age of 18, as well as the creation of opportunities for “Supervised Independent Living”, which can continue until the age of 26⁵⁶, after a reassessment of individual needs.

Orphaned children, those under social care, or those placed in foster families face significant needs for protection, care, and support for their emotional, physical, and social development. Upon reaching the age of 18, these children often encounter increased difficulties as they transition into a new phase of life without stable support. Despite state efforts to provide assistance, it is clear that significant improvements are still needed in the social protection system and support services to ensure better conditions and opportunities for these children, particularly after turning 18. The new Law on Social and Family Services provides for continued support until the age of 26, according to specified circumstances. A key challenge remains the limited number of foster families for children without parental care. Currently, only 36 foster families

54 *Ex-officio* no. 610/2024

55 *Ex-officio* no. 563/2024

56 Law on Social and Family Services, Article 28

are active in 17 municipalities of Kosovo⁵⁷, meaning that most municipalities have not met the legal obligation to designate at least three (3) foster families for children without parental care, which must be evaluated, trained, and approved according to the standards of the relevant Ministry. In addition, the by-laws required by Law No. 08/L-255 on Social and Family Services, which serve as indicators of its implementation, have not yet been fully adopted. This includes particularly the by-laws related to the organization and scope of Day Care Centers and Reception Centers⁵⁸. The failure to adopt these acts hinders the full implementation of the law, as only five sub-legal acts have been approved so far this year.⁵⁹

Furthermore, the Ombudsperson emphasizes that the Law on Financial Support for Families of Children with Permanent Disabilities establishes the right to financial assistance as a protective measure for these children. However, this law does not provide full protection for all children with disabilities, as it grants this right only to children with permanent physical, mental, or sensory disabilities who are unable to perform daily life activities without the help of a guardian.

Freedom of Belief, Conscience and Religion

Freedom of Belief, Conscience, and Religion in Kosovo is guaranteed by Article 38 of the Constitution of the Republic of Kosovo, Article 9 of ECHR, and Law No. 02/L-31 on Freedom of Religion in Kosovo.

The legal status of religious communities is inadequately regulated because the exist-

ing law does not allow for proper regulation in this area. Efforts to amend the existing law and adopt a new Law on Religious Freedoms have not yet been finalized, despite ongoing attempts for over ten years. In the course of fulfilling its mandate, the Ombudsperson has identified the needs and issues faced by believers and religious communities. Based on these insights, the Ombudsperson has consistently highlighted in annual reports the necessity of regulating this area, specifically the urgent need to adopt this law.

One of the issues that has remained concerning this year is the wearing of headscarves in schools, which remains unregulated. In this regard, the Ombudsperson initiated an investigation *ex-officio*⁶⁰ after receiving information that a female student in a high school in Peja had been prohibited from attending classes by the school principal due to her decision to wear a headscarf. Efforts were made by the Ombudsperson's representatives, as well as relevant institutions and organizations, to resolve this case, ultimately allowing the student to resume her education. The Ombudsperson's 2023 report emphasized that the Administrative Instruction of the Ministry of Education, Science, Technology, and Innovation (MESTI), No. 06/2014, does not constitute a legal basis for prohibiting the wearing of headscarves. However, such practices should be regulated by law and aligned with Article 55 of the Constitution, which permits restrictions on rights and freedoms only when there is a legitimate purpose.

Another issue identified by the Ombudsperson in the complaints received during the reporting year concerns the regulation of

57 The advocacy meeting "Sustainability of Social Services for Children and Families in Need", held on December 13, 2024, was organized by the Organization for Children Without Parental Care

58 See Articles 61 and 62 of the Law on Social and Family Services

59 Regulation No. 13/2024 on the Organization and Functioning of the Panel for Residential Housing; Regulation No. 09/2024 on the Organization and Functioning of the Foster Care Panel; Regulation No. 10/2024 on the Organization and Functioning of the Adoption Panel; Regulation No. 08/2024 on the Organization and Functioning of the Professional, Social and Family Services Council

60 *Ex-officio* R. no. 878/2024

the registration process for religious communities and the negative consequences arising from the lack of legal solutions for certain religious communities in Kosovo. This issue will be elaborated in the section addressing discrimination based on belief, conscience, and religion, in connection with the population registration process, where only some religious beliefs are recorded. Given that the Constitution and legislation of Kosovo do not designate an official religion, complainants argue that this situation may constitute discrimination on this basis.

The Ombudsperson received a complaint⁶¹ from an NGO represented by Mr. Vladimir Rakić regarding the decision of the Ministry of Internal Affairs to remove a Serbian Orthodox Church priest – abbot of the “Devina Voda” Monastery (a citizen of the Republic of North Macedonia) – from the territory of the Republic of Kosovo. Although the complaint was not filed by the individual directly affected by the decision, the Ombudsperson initiated an investigation, considering the sensitivity of the case and the need to ensure that the responsible authorities adhered to legal procedures when making the decision. Following the investigation and the response received from the Ministry of Internal Affairs, it was confirmed that the complainant was advised on the legal remedies available, which, based on the information obtained, he did not utilize. Based on these facts and in accordance with Article 22.3 of the Law on the Ombudsperson, the Ombudsperson concluded that there was no basis for continuing further investigation into this case.

The Ombudsperson also launched an investigation into a complaint⁶² received from the legal representative of the Serbian Orthodox Church regarding allegations that the Kosovo Police – Podujeva Police Station – had refused to accept a criminal report that the representative intended to

submit concerning the unauthorized entry of an unidentified individual into the Serbian Orthodox Church premises in the village of Rakitnicë, Podujeva Municipality. Following correspondence between the Ombudsperson and the General Director of the Kosovo Police, the Ombudsperson was informed, with accompanying documentation, that the Kosovo Police had conducted investigative actions in coordination with the competent prosecution. Upon completion of the investigations, on May 28, 2024, the prosecution filed an indictment against the suspects at the Basic Court in Prishtina.

The Ombudsperson assesses that the Republic of Kosovo serves as a good example of tolerance and respect for religious freedoms. Despite isolated individual cases, a general standard of full respect for the right to freedom of belief and religious freedoms has been established. It is essential that this established standard is supported by appropriate legislation, harmonized with the need for legal regulation of unresolved issues, to ensure the continuity of practices that promote tolerance and understanding among different religious beliefs.

Freedom of Speech

In the Republic of Kosovo, freedom of expression is guaranteed by Article 40 of the Constitution of the Republic of Kosovo, which ensures the right to express, disseminate, and receive information, opinions, and other messages without interference. Freedom of expression is also upheld through international human rights instruments, in accordance with Article 22 of the Constitution.

According to the Constitution⁶³, freedom of expression may be restricted by law when necessary to set limits in relation to other rights. Restrictions on freedom of expression under Kosovo’s legislation are intended to prevent hate speech, incitement to vi-

61 R. no. 54/2024

62 A. no. 649-2023

63 Constitution, Article 40, paragraph 2

olence, discriminatory language, offensive language, and defamation. ECHR clarifies that *“The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”*⁶⁴

During the reporting year, the Ombudsperson received three complaints related to freedom of expression, two of which were deemed inadmissible as they fell outside the mandate of the Ombudsperson, while one was investigated and addressed. However, the small number of complaints did not prevent the Ombudsperson from monitoring the respect for freedom of expression in the country and taking concrete actions within the framework of its *ex-officio* mandate.

The Ombudsperson has closely monitored the level of respect for freedom of expression and the language used in public discourse. Media outlets and news portals play a crucial role in realizing freedom of expression and are essential sources of information. Furthermore, social media platforms, which enable interactive communication, provide opportunities for freedom of expression but also pose risks of misuse. The lack of legal regulation on the use of social media platforms continues to be a growing issue regarding the overstepping of freedom of expression limits, the reliability of information, and the accountability for shared content. These platforms can be misused, casting doubt on the purpose and accuracy of information, as well as facilitating communication with degrading and hateful language.

On January 15, 2024, based on self-initiated investigations, the Ombudsperson published

ex-officio Report No. 146/2021, titled “Language in Public Discourse in Relation to the State’s Obligations to Guarantee Freedom of Expression and Prevent Hate Speech.” The report aimed to reflect on the state of language used in public discourse in Kosovo, based on monitoring, research, and analysis of data collected from parliamentary sessions, television debates, and social media comments from 2020 to 2022. Based on the findings of this research and the requirements of Recommendation CM/Rec(2022)161 of the Committee of Ministers to member states on combating hate speech, the Ombudsperson concluded that it is necessary for the Assembly of Kosovo to adopt a Code of Conduct for Members of Assembly to sanction the use of inappropriate, offensive, derogatory, humiliating, and hate speech. Recognizing the importance of freedom of expression and its limitation in cases where a specific expression may harm legitimately protected objectives, the Ombudsperson emphasized the need for the engagement of educational institutions in creating programs for students to learn about the consequences of hate speech.

The report also found that the training programs of the Justice Academy lack specific modules or continuous training programs addressing issues related to hate speech and the case law of ECtHR on this matter. In addition, during the period examined, the report observed the absence of media moderation to expose the public to cases of hate speech. The Ombudsperson highlighted the importance of the Independent Media Commission (IMC) conducting continuous campaigns against hate speech and collaborating with media outlets and journalists to prevent hate speech and respond in real time. Furthermore, the Ombudsperson emphasized the importance of all pillars of government working together to raise awareness, identify best practices, condemn acts of hate speech or hate crimes, and reaffirm the principles of democracy, the rule of law, equality, and non-discrimination. Consequently, media outlets and social

64 ECHR, Article 10, paragraph 2

media platforms should review their codes of conduct to promote content moderation and, where necessary, remove hateful content while also providing professional training on hate speech for their employees and facilitating awareness campaigns to prevent hate speech. Based on the findings of the report, the Ombudsperson issued specific recommendations to the responsible authorities.⁶⁵

On February 6, 2024, the Ombudsperson organized a discussion forum to present the report and recommendations, titled *“Language in Public Discourse in Relation to the State’s Obligations to Guarantee Freedom of Expression and Prevent Hate Speech.”* The forum was attended by representatives of public institutions, media, and civil society. During the discussion, the Ombudsperson emphasized the state’s obligation to take measures against speech that incites hatred against individuals or specific groups based on race and racial discrimination, gender-based discrimination, homophobia, transphobia, xenophobia, and all other forms rooted in discrimination and intolerance. The Ombudsperson also noted that discriminatory hate speech against women, LGBTI persons, and other vulnerable groups is increasing, particularly on social media. This has highlighted the need for monitoring, prevention, and combating such language in all its forms. Panellists at the discussion emphasized that the report was published at a time when public discourse, particularly on social media, is fragile. They stressed the need for greater efforts to avoid hate speech, defamation, and insults, to safeguard privacy, and to ensure that public spaces are not abused under the pretext of freedom of expression. The forum presented the findings of the report based on the research and analysis of data collected from parliamentary sessions, television debates, and social media comments from 2020 to 2022.

Based on the investigation of the complaint received by the Ombudsperson on March 1, 2024, from five non-governmental organizations, represented by authorization from the “Youth Initiative for Human Rights,” against the Assembly of the Republic of Kosovo, concerning discrimination and violation of the dignity of LGBTIQ+ persons during the plenary session of the Assembly of the Republic of Kosovo, held on March 16, 2022, and considering that the complainants also filed a lawsuit (C.no. 2993/2024) with the Basic Court of Prishtina on March 1, 2024, the Ombudsperson, after analysing the circumstances of the case, submitted an *amicus curiae* to the Basic Court of Prishtina on October 17, 2024. In this submission, among other points, the Ombudsperson emphasized the importance of freedom of thought and expression in the context of the case. In this regard, the Ombudsperson highlighted that every individual has the right to express their personal opinions and views, which constitutes the foundation of any free democratic society. However, the right to freedom of speech, regardless of the manner of expression and the dissemination of ideas and viewpoints, should not serve as a justification for discrimination. Therefore, the expression of views and beliefs that violate the dignity of individuals or groups of individuals, damage their reputation, and infringe on the guaranteed rights of others cannot be justified under the right to freedom of expression.⁶⁶

65 <https://oik-rks.org/en/2024/02/06/ombudspersons-report-ex-officio-no-1462021-language-in-public-discourse-in-relation-to-the-obligations-that-the-state-has-in-ensuring-freedom-of-expression-and-preventing-hate-speech/>

66 <https://oik-rks.org/2024/12/05/opinion-ligjor-i-avokatit-te-popullit-ne-cilesine-e-mikut-te-gjykates-amicus-curiae-per-gjykaten-themelore-te-prishtines-r-nr-175-2024-lidhur-me-diskriminimin-dhe-shkeljen-e-dinjitetit-te-pjeset/>

The Right of Access to Public Documents

The Constitution⁶⁷ guarantees every person's right to access public documents to ensure transparency and accountability of public institutions. The right of access to public documents is essential in creating an open environment for citizens, enabling them to be informed and engaged in matters of public interest.

In addition to being guaranteed by the Constitution, the right of access to public documents is also enshrined in the Universal Declaration of Human Rights⁶⁸, the European Convention on Human Rights⁶⁹, and the International Covenant on Civil and Political Rights.⁷⁰

Law No. 06/L-081 on Access to Public Documents (LAPD) guarantees the right of every person, without discrimination on any grounds, to access public documents that are produced, received, held, or controlled by public institutions, as well as the right to reuse public sector documents.⁷¹ This law defines key principles such as unrestricted access to public documents, limitations in specific cases – including documents related to national security, criminal investigations, or personal data protection – and the review of decisions and procedures for administrative appeals. The Information and Privacy Agency (IPA) is responsible for overseeing the implementation of the LAPD and ensuring a balance between access to information, privacy protection, and security. It also serves as the second-instance authority, competent for imposing measures as provided by the LAPD.

Under Article 21 of the LAPD, the Ombudsperson assists citizens in exercising their right to access public documents in accordance with the Constitution, Law No. 05/L-019 on the Ombudsperson, and other relevant laws regulating the scope and responsibilities

of the Ombudsperson. Every individual has the right to address the Ombudsperson Institution with a request or complaint if they believe that any right recognized by this Law or other acts related to access to public documents has been violated.

In 2024, the Ombudsperson registered four complaints related to access to public documents, of which three were declared inadmissible, and one was opened for investigation. The complaints were declared inadmissible for the following reasons:

- One complaint was declared inadmissible under Article 22, paragraph 1, subparagraph 1.1, after reviewing the submitted documentation and the circumstances of the case, which indicated that no human rights violation had occurred or that there was no instance of maladministration.
- Two complaints were declared inadmissible under Article 22, paragraph 1, subparagraph 1.3, as the review of the submitted documentation and case circumstances showed that proceedings for the respective case were already ongoing before the competent authorities.

The complaint that was opened for investigation was submitted against the Information and Privacy Agency (IPA) for failing to address the complaint within the timeframe specified by Law No. 06/L-081 on Access to Public Documents. In communication with the IPA regarding this complaint, the Ombudsperson was informed about the reasons for the delay in processing the complaint within the legally defined timeframe. The IPA cited a high volume of complaints and a lack of human resources as the primary reasons for the delay. However, the IPA also informed that new officials had been recruited to strengthen institutional capacity for reviewing complaints, and the complainant's issue would soon be

67 Constitution of the Republic of Kosovo, Article 41 Right of Access to Public Documents

68 UDHR, Article 19

69 ECHR, Article 10

70 ICCPR, Article 19

71 Law No. 06/L-081 on Access to Public Documents, Article 1

resolved, which subsequently occurred. The investigation regarding this complaint was concluded based on Article 21, paragraph 1, subparagraph 1.5, of Law No. 05/L-019 on the Ombudsperson.

The Ombudsperson emphasizes that Law No. 06/L-081 on Access to Public Documents enables citizens to play an active role in societal development and the oversight of public institutions. The Information and Privacy Agency, as the competent institution for implementing this law, has addressed and handled issues related to this right, including activities aimed at informing public institutions and civil society. The Ombudsperson also highlights the importance of implementing this mechanism with diligence and dedication, maintaining a balance between transparency and the protection of the legitimate interests of the state and individuals.

Consequently, regarding the right of access to public documents and considering the reports of the IPA⁷², the Ombudsperson assesses that there is an increasing awareness among citizens, non-governmental organizations, and the media regarding the need to demand accountability and public information. However, significant efforts are still required to enhance the understanding of this right.

Freedom of Media

Full respect for media freedom is essential for the functioning of democracy and the protection of human rights. Media freedom serves as a guarantee that ensures citizens play an active role in public life and democratic processes.

The Constitution, through Article 42⁷³ [Freedom of the Media], guarantees media freedom and pluralism. In addition, it prohibits censorship and stipulates that *“No one shall prevent the dissemination of information or ideas through media, except if it is necessary to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity, or religion.”*

Kosovo has a broad media pluralism, including

media outlets that publish in the languages of non-majority communities. According to the Independent Media Commission, the competent body responsible for regulating, managing, and overseeing the broadcasting frequency spectrum, Kosovo has 19 television stations: one public broadcaster (which airs content in all community languages), 13 TV stations in the Albanian language, and 4 TV stations in the Serbian language. In addition, 79 radio stations are licensed.⁷⁴

Journalistic sources are protected under Law No. 04/L-147 on the Protection of Journalism Sources. Other laws also contain detailed provisions for the implementation of constitutional guarantees, such as the Civil Law Against Defamation and Insult, the Law on Protection of Personal Data, the Law on Access to Public Documents, the Law on Copyright and Related Rights, as well as media self-regulation through the Code of Ethics, which aims to ensure greater accountability in journalism.

The Ombudsperson has handled four cases related to media freedom, including two cases concerning the obstruction of journalists in the performance of their duties, one complaint from the Union of Radio Television of Kosovo regarding the budget of the public broadcaster, and one case initiated *ex-officio* regarding the constitutional assessment of Law No. 08/L-289 on the Independent Media Commission (IMC), with comments already submitted to the Constitutional Court.

In the two cases investigated regarding the obstruction of journalists, the Ombudsperson found that in the first case, based on the collected data, the prosecuting authorities concluded that no elements of a criminal offense were identified, and the police, in consultation with the State Prosecutor, closed the case with an official report. The second case was closed because the complainant did not exhaust legal remedies and because the complaint concerned the publication of the complainant's personal data by an online portal.

72 <https://aip.rks-gov.net/en/the-week-of-access-to-public-documents/>

73 Constitution of the Republic of Kosovo, Article 42, paragraph 1

74 <https://regjistri.kpm-ks.org/>

On the other hand, on behalf of the RTK union, a request was made for the Ombudsperson to refer the Law on Budget Allocations for 2025, specifically the budget allocated for RTK, to the Constitutional Court. The claims presented in the complaint emphasize that the responsible authorities have failed to regulate the financing of RTK by law and that the budget allocations for 2025 do not comply with the Law on Radio Television of Kosovo, which stipulates that the RTK budget should be 0.7% of the annual state budget. In addition, it was noted that the budget allocated in recent years does not ensure the broadcaster's continuity, thereby severely affecting the role of the public television, as well as its advancement and investment in maintaining existing capacities. The content of the complaint indicates that the competent authorities, in this case, the Assembly of the Republic of Kosovo, despite the legal obligation to regulate RTK financing through a special law, have not taken such an initiative and, to date, have not addressed this issue.

In his opinion, the Ombudsperson elaborated on Article 18 [Dismissal of the Chairperson and Member of the IMC] and, for the specific case, emphasized the need for caution in dismissal procedures, particularly regarding the simple majority required by the Assembly for the dismissal of the Chairperson or a member of the IMC. The Ombudsperson considered that the possibility of dismissing the Chairperson or a member of the IMC by a simple majority in the Assembly appears to present an increased risk of political influence over the Chairperson or members of the IMC. The Ombudsperson highlighted that, in this case, requiring a higher majority than a simple majority for dismissal would provide greater security for the Chairperson or members of the IMC in exercising their functions. However, dismissal by a two-thirds majority of all deputies should not be seen as a guarantee that allows the Chairperson or members of the IMC to abuse their duties and responsibilities.

On the occasion of May 3rd – World Press Freedom Day – the Ombudsperson emphasized the importance of press

freedom and journalist safety as fundamental elements of a democratic society. The Ombudsperson noted that verbal threats and physical attacks against journalists and other media workers continued to be present in their work and that pressures against them remain a concern, including labelling and discrediting journalists due to their reporting, which is in the public interest.

During 2024, the Association of Journalists of Kosovo (AJK) reported 53 cases, including death threats, attacks against journalists, obstruction in the performance of duties, dangerous language and campaigns against journalists and media outlets, property damage, and other incidents. In several cases, AJK reacted against the language used by high-ranking state officials toward certain media outlets. The Association also condemned political pressure exerted on the public broadcaster, Radio Television of Kosovo (RTK), following the resignation of RTK's Director General.⁷⁵

Regarding the public broadcaster, RTK, it continues to operate under an outdated law, considering that Law No. 04/L-046 on Radio Television of Kosovo entered into force on April 12, 2012, and that the three-year transitional period ended in 2015. The absence of a new law is causing significant problems within the public broadcaster, particularly the lack of full and sustainable funding, property-related issues, and others. RTK's budget continues to be allocated from the state budget in the amount of 8 million 960 thousand euros per year. Meanwhile, according to the expired RTK law, Article 21, paragraph 4 stipulates: *"For a transitional three-year period, until the solution of funding through subscription, RTK will be allocated 0.7 % of this income from the Kosovo Budget annually, excluding incomes from the privatization process, one time incomes for the Budget of Kosovo and incomes of central and local level."*

On the other hand, RTK has also faced criticism regarding its editorial independence. The broadcaster was criticized for publishing an article borrowed from a

⁷⁵ <https://agk-ks.org/en/cases/presion-politik-ndaj-rtk-prishtine-07.07.2024/>

Bosnian media outlet, which labelled two Kosovo-based portals as being financed and controlled by the Serbian state. This news was republished on RTK's website without offering any evidence to substantiate the claim and without conducting a simple verification before its publication. A portion of RTK's staff, including editors and moderators, distanced themselves from this published news. The RTK board and management discussed holding those responsible accountable for this report. Consequently, the chairman and another board member resigned from their positions, followed by the resignation of another board member later on.

The Independent Media Commission (IMC) handles complaints from third parties against television and radio stations in cases of violations of the code of ethics. In the past year, the IMC has approved two regulations⁷⁶: the Regulation on the Protection of Users in the Field of Audio and Audio-visual Service Provision, which provides clearer information to citizens purchasing TV packages from distribution operators, protects users from misleading advertisements, and allows citizens to terminate contracts or request refunds if contract terms are unilaterally breached.

The second regulation concerns the procedure for handling complaints at the IMC, aiming to process complaints more swiftly while not exceeding the legal deadline of 45 days. A complaints register will be created, allowing citizens to track the progress of their complaint handling.

Press Council of Kosovo (PCK) is another self-regulatory body established for and by the written media sector. In October 2024, PCK adopted a new statute, adapting to the demands of the times, including the competence to address videos produced by written media in Kosovo, an issue that

was unclear regarding which body had this competence.⁷⁷ According to the new statute, written media are defined as "*Written media (hereinafter: media) – including newspapers, printed and online magazines, news agencies, and generally online media that produce text, audio, photographs, videos, and graphics transmitted over the internet to be viewed or heard online.*"

With the new statute, PCK will have the right to address complaints from third parties regarding content published by media on their official social media channels or other platforms. This will increase the responsibility of written media in relation to their publications on official social media or other platforms. Furthermore, the new statute foresees the removal of members if a media outlet fails to correct errors or ignores public notices.

There is no precise number of online newspapers or portals, but PCK has 43 registered members in this council, whose editors meet once a month to address complaints about alleged violations of the media code of ethics by the portals. In 2024, PCK addressed 31 complaints from third parties against written media. Of this number, 17 complaints were accepted for alleged violations of the Code of Ethics, specifically Chapters 2 and 4, which deal with "reporting the truth" and "the right to reply." Furthermore, 9 complaints were not accepted, and 5 others were partially accepted.

The language used in the media remains concerning, and addressing this issue requires a multifaceted approach. Hate speech, discriminatory language, and divisive narratives affect individuals, communities, and society as a whole. This has led to insults and offenses directed at individuals or groups based on attributes such as race, religion, ethnicity, gender, sexual orientation, disability, or other characteristics. Official Facebook pages of online media, portals, and television stations still do not have a regulated form or method for removing

76 https://kpm-ks.org/lajmi_i_plot/3734

77 https://kallxo.com/gjate/ndryshimet-e-rregullatives-qe-synojne-avancimin-e-etikes-ne-media/?fbclid=IwZXh0bgNhZW0CMTEAAR11XUjl_6egoGJYOX-bqEjuisPeihRbij_zskhznHcR5f4oKMrOgHuRj1c_aem_OFexCBfcqWCqdt3GdyHtag

comments from citizens that contain hate speech, insults, and offenses against the parties these media report on.

Freedom of Gathering

Freedom of gathering is guaranteed by the Constitution, specifically by Article 43, which explicitly states: *“Freedom of peaceful gathering is guaranteed. Every person has the right to organize gatherings, protests and demonstrations and the right to participate in them. These rights may be limited by law, if it is necessary to safeguard public order, public health, national security or the protection of the rights of others.”*

Furthermore, Law No. 08/L-166 on Public Gatherings, adopted in 2023, guarantees the right of every person, regardless of gender, race, colour, language, belief, national affiliation, economic or financial status, etc., to organize and participate in public gatherings, in accordance with the rules set by law.

In general, the right to freedom of assembly is respected in our country, and the number of complaints received by the Ombudsperson regarding this issue is very low.

One of the largest gatherings organized annually is the “Pride Parade”, which was also held this year and proceeded smoothly without any reported incidents or irregularities. However, after the parade ended, unidentified individuals vandalized a pedestrian crossing on “George Bush” Street by painting graffiti containing hate speech against the LGBTQI+ community. This was the same section of the street that the parade participants had painted in rainbow colours in honour of Pride Week. Following the report of this incident on June 10, 2024, the Ombudsperson publicly reacted, strongly condemning the offensive and discriminatory language used in the act of vandalizing symbols representing LGBTQI+ individuals. The Ombudsperson called for respect for democratic values and principles, human

rights, and the promotion of a culture of respect and tolerance toward the diversity of sexual orientations and gender identities.⁷⁸

Regarding the complaints received⁷⁹, they do not directly concern violations of the right to freedom of assembly but rather actions taken by authorities – specifically, the Kosovo Police – during the arrest of individuals, which indirectly relate to this right. Both cases are currently under further investigation.

Freedom of Association

The right to association is guaranteed by the Constitution of the Republic of Kosovo. According to Article 44, paragraphs 1 and 2 of the Constitution: *“... The freedom of association includes the right of everyone to establish an organization without obtaining any permission, to be or not to be a member of any organization and to participate in the activities of an organization. 2. The freedom to establish trade unions and to organize with the intent to protect interests is guaranteed. This right may be limited by law for specific categories of employees.”*

In a general view, it can be assessed that this freedom is sufficiently respected in Kosovo. This conclusion is supported by the Kosovo Progress Report published by the European Commission on October 30, 2024, which emphasizes that: *“The Constitution and laws guarantee the freedom of assembly and organization, and their implementation is satisfactory. ... The Law on Freedom of Association and its applicable legislation generally meet the international human rights standards.”*⁸⁰

On the other hand, the freedom of association, in addition to the Constitution, is also guaranteed and regulated by Law No. 04/L-011 on Organising Trade Union in Kosovo and Law No. 06/L-043 on Freedom of Association in Non-Governmental Organizations.

During the reporting year, the Ombudsperson

78 <https://oik-rks.org/2024/06/18/reagim-i-avokatit-te-popullit-per-vandalizmin-e-simboleve-te-komunitetit-lgbtq/>

79 R.no.1126/2024 and R.no.612/2024

80 https://neighbourhood-enlargement.ec.europa.eu/document/download/c790738e-4cf6-4a43-a8a9-43c1b6f01e10_en?filename=Kosovo%20Report%202024.pdf

received two complaints related to this issue. One of the complaints⁸¹ concerns the claim of the restriction of freedom of association and obstruction by employers for participation in trade union activities, which was filed by the Federation of Health Trade Unions of Kosovo (FHTUK) on behalf of union members against the Hospital and University Clinical Service of Kosovo (HUČSK). However, the investigations initiated on this matter ended due to the lack of supporting and argumentative documentation for the claims of the parties. Meanwhile, the other complaint⁸² was filed by four workers of FHTUK, claiming an immediate termination of their employment relationship without respecting the procedures set out in the Law on Labour. This complaint is still under review, and no decision has been made regarding it yet.

In order to address various issues related to the respect of employees' rights, social dialogue, and trade union organizing freedom, the Ombudsperson organized a roundtable discussion with representatives of the country's trade unions.⁸³

Representatives of trade unions from the education, police, health, correctional, fire-fighting services, customs, tax administration, airport, and mining sectors raised concerns and challenges, particularly about the lack of social dialogue with the executive government. As a result of this roundtable, a joint agreement was reached between the Ombudsperson and trade union representatives that future concerns and requests of trade unionists raised in this roundtable would be addressed in a joint meeting with the government and the relevant ministries.

Regarding the restriction of freedom of association, the Ombudsperson published an opinion on May 13, 2024, concerning Case A.no. 295/2022⁸⁴ related to the restriction of trade union activity and discrimination based on trade union engagement of workers at

Limak Prishtina International Airport Adem Jashari. The complaint was initiated by the president of the Airport International Airport Adem Jashari Trade Union, claiming his dismissal from work and denial of access to the union's offices and exercise of union activities. The complaint also included claims of collective dismissal of workers after a three-day strike held in 2019 and their discrimination at work due to their union affiliation.

The Ombudsperson, in this opinion, concluded that hindering access to union premises constitutes a restriction of trade union activity and freedom of association, and any eventual dismissal or violation of employment rights due to union activities constitutes discrimination based on freedom of association. The Ombudsperson has also requested from the responsible authorities to take measures to ensure the exercise of trade union activities, create meaningful communication dialogue, and prohibit any discriminatory actions towards workers engaged in trade union activities.

The Ombudsperson assesses that the freedom of association in Kosovo is generally respected, and except for the cases described in this report, there have been no other concerns raised during the reporting year regarding this matter.

81 R/564/2024

82 <https://oik-rks.org/en/2024/03/12/the-ombudsperson-met-the-representatives-of-the-trade-unions/>

83 <https://oik-rks.org/en/2024/03/12/the-ombudsperson-met-the-representatives-of-the-trade-unions/>

84 <https://oik-rks.org/wp-content/uploads/2024/05/Opinion-i-AP-295-2022.pdf>

Electoral and Participation Rights

The right to vote and to be elected, as one of the fundamental human rights, is guaranteed by the Constitution of the Republic of Kosovo⁸⁵, as well as by other international instruments.

Electoral rights and the right to representation are closely linked to democracy and the sustainable development of society. Law No. 08/L-228 on General Elections and Law No. 03/L-040 on Local Self-Government provide an essential framework for ensuring these rights, while their implementation and oversight are equally important in achieving a functional and inclusive democracy.

Electoral rights are a fundamental element of democracy, guaranteeing every individual the opportunity to express their opinion and contribute to decision-making processes.

The right to representation ensures that the voices of citizens are heard by decision-making institutions and is particularly important for representing their interests. A key indicator of the realization of this right is ensuring that all social groups in the country are heard. Law No. 03/L-040 on Local Self-Government serves as a crucial instrument in this regard, as it establishes mechanisms for the representation of various social groups. Proper representation at the local level is essential to ensure that the needs and concerns of different communities are taken into account.

During the reporting year, the Ombudsperson registered two cases for investigation related to electoral and representation rights. One case was initiated *ex-officio*, while the other was based on a complaint.

The case initiated based on a complaint⁸⁶ concerns a grievance submitted by a group of citizens alleging a lack of transparency by the Municipality of Prizren regarding the division of local communities. This case is still under investigation.

Meanwhile, the *ex-officio* case⁸⁷, was registered to assess whether Article 28 of Law No. 08/L-228 on General Elections in the Republic of Kosovo is in compliance with the Constitution of the Republic of Kosovo. On January 16, 2024, the Ombudsperson submitted a request to the Constitutional Court for the assessment of Article 28 of Law No. 08/L-228 on General Elections in the Republic of Kosovo, to determine whether this provision aligns with Article 7, Article 24, and Article 45, paragraph 1, of the Constitution of the Republic of Kosovo. Through this request, the Ombudsperson assessed that although the quota set in the contested law does not constitute a restriction of rights, its presentation as a minimum participation limit is not proportionate and does not reflect gender equality. As such, it does not comply with the principle of non-discrimination. Furthermore, such a provision contradicts the legitimate aim of achieving gender equality, as required by the Constitution: *“The Republic of Kosovo ensures gender equality as a fundamental value for the democratic development of the society, providing equal opportunities for both female and male participation in the political, economic, social, cultural, and other areas of societal life.”* In addition, such a provision undermines the essence of the guaranteed right, which in this case includes the right to be elected, the right to participation, and the right to equality before the law. Regarding this request, the Constitutional Court ruled in Judgment KO15/24, concluding that the contested provision is in compliance with the Constitution. It should be noted that for the same issue, the Ombudsperson had previously initiated legal proceedings through regular judicial procedures. The conclusions reached in the Constitutional Court’s judgment and the Ombudsperson’s position on this matter will be elaborated further in the section of the report addressing the role of the Ombudsperson as an equality body.

85 Constitution of the Republic of Kosovo, Article 45.

86 R/236/2024

87 *Ex-officio* 6/2024

During the reporting year, following the events that ensued after the extraordinary mayoral elections in the four northern municipalities (North Mitrovica, Zubin Potok, Leposaviq, and Zvečan) on April 23, 2023, the Government, on September 5, 2023, adopted Administrative Instruction (MAPL) No. 02/2023 on the Citizens' Initiative for Recalling Elections on the Local Level. After the necessary petition signatures were collected to dismiss the mayors of the northern municipalities, on April 21, 2024, the Central Election Commission (CEC) organized a voting process to decide for or against the removal of the mayors from office in the four northern municipalities. The Ombudsperson monitored this process, and no incidents were reported during the observation. Overall, the voting process was conducted in an orderly manner. It should be noted, however, that this process was boycotted by the Serbian community, resulting in a very low voter turnout.

According to the CEC and the observers who assisted in organizing the process, despite some challenges, the voting was generally well-organized.⁸⁸

On August 16, 2024, the President of the country, through Decree No. 119/2024, set the date for the regular elections for the Assembly of the Republic of Kosovo. The regular elections are scheduled to take place on February 9, 2025.

On September 11, 2024, the Information and Privacy Agency issued a Recommendation on the use of marking ink during the voting process, advising and encouraging the CEC to align its election organization efforts with personal data protection requirements and Law No. 08/L-228 on General Elections.

Regarding the use of marking ink in the elections scheduled for February 9, 2025, representatives of the Ombudsperson met with CEC representatives on December 19,

2024. During this meeting, they discussed the reasons for transitioning to the use of marking ink. The CEC representatives informed that the equipment previously used to ensure the integrity of the voting process and prevent potential misuse was outdated. They also stated that during the application of marking ink in the elections for the removal of mayors in April 2024, the CEC did not receive any complaints. Consequently, the CEC considers the use of marking ink necessary and appropriate. The CEC representatives affirmed that they would continue with operational measures in accordance with the law on general elections and other relevant secondary legislation.

The Ombudsperson as an Institution of Equality and Protection Against Discrimination

The Constitution of the Republic of Kosovo stipulates that the Ombudsperson monitors and protects the rights and freedoms of individuals from unlawful and irregular actions or inactions of public authorities.⁸⁹

The role and mandate of the Ombudsperson are further specified in Law No. 05/L-019 on the Ombudsperson, which establishes the Ombudsperson as an equality mechanism for promoting, monitoring, and supporting equal treatment without discrimination, based on the grounds protected by the Law on Gender Equality and the Law on Protection Against Discrimination.⁹⁰

Law No. 05/L-021 on Protection Against Discrimination,⁹¹ defines the Ombudsperson's competencies regarding cases related to discrimination. Meanwhile, Law No. 05/L-020 on Gender Equality,⁹² designates the Ombudsperson as an equality institution responsible for handling cases related to gender-based discrimination.

88 <https://kqz-ks.org/konferenca-e-katert-kqz-iniciativa-qytetare-per-largimin-e-kryetareve-te-komunave-leposaviq-zubin-potok-zvecan-dhe-mitrovice-e-veriut-ka-deshtuar/>

89 Constitution of the Republic of Kosovo, Article 132, paragraph 1

90 Law 05/L-019 on the Ombudsperson, Article 1, paragraph 2

91 Law 05/L-021 on Protection from Discrimination, Article 9, Article 12 and Article 18

92 Law 05/L-020 on Gender Equality, Article 13

The Law on the Ombudsperson is an organic law, and the procedures for handling cases, including those concerning discrimination as defined by the Law on Protection Against Discrimination and the Law on Gender Equality, are applied in accordance with the procedures specified in the Law on the Ombudsperson.

Implementation of the Law on Protection Against Discrimination

The Law on Protection against Discrimination (LPD) defines the competencies of the Ombudsperson regarding its implementation. Article 9, paragraph 2.12 of the LPD requires the Ombudsperson to submit a report at least once a year to the Assembly of the Republic of Kosovo on the implementation of this Law. On December 11, 2024, for the first time since the law's entry into force, the Ombudsperson submitted to the Assembly of the Republic of Kosovo the *Annual Report 2023 on the Implementation of the Law on Protection Against Discrimination in the Republic of Kosovo*.⁹³

The report highlights a significant lack of institutional awareness regarding the necessity of collecting data and documenting cases of discrimination. It is important to emphasize that the absence of institutional evidence concerning violations of the LPD does not reflect the actual state of discrimination cases. It is widely recognized that reports and complaints about discrimination, in both the public and private sectors, are frequent, as are administrative and judicial proceedings initiated by individuals who claim to be victims of violations of the right to equality before the law and non-discrimination. These facts are publicly acknowledged. Therefore, there is a clear discrepancy between alleged cases of discrimination and official evidence documenting them.

The failure to complete the institutional infrastructure, considering that a number

of municipalities have yet to appoint an officer for protection against discrimination, as well as the lack of standardization in the job descriptions of units and officers for protection against discrimination at the ministry and municipal levels, is identified as a finding of this report.

The report provides six concrete and practical recommendations aimed at addressing the issue of the partial implementation of the Law on Protection against Discrimination (LPD) – given that if data on discrimination cases are not collected by the relevant institutions, it is impossible to conclude that the LPD is being fully implemented.

The LPD is currently undergoing a review process. The objective of this legislative review is to adapt the law to respond to challenges, needs, and societal transformations, as well as to further align it with the evolving standards of the Council of Europe (CoE) and the European Union (EU) acquis. This review process follows the *Ex-Post* Evaluation Report on the Implementation of the Law on Protection Against Discrimination, prepared by the Legal Office within the Office of the Prime Minister, with the participation of key institutional stakeholders in the field of protection against discrimination, including the Ombudsperson.

Findings of the Ombudsperson Regarding Discrimination in Kosovo

To provide an overview of discrimination in Kosovo, the Ombudsperson relies exclusively on the institution's records of received and investigated complaints. The Ombudsperson is the only institution in the Republic of Kosovo that maintains records of discrimination cases, as stated in the Report on the Implementation of the Law on Protection against Discrimination (LPD), submitted to the Assembly on December 11, 2024. It was found that no other authority in the Republic of Kosovo keeps data on complaints and cases of discrimination. The lack of nationwide data

⁹³ <https://oik-rks.org/en/2024/12/10/2023-annual-report-on-the-implementation-of-the-law-on-protection-from-discrimination-in-the-republic-of-kosovo/>

on discrimination cases affects the accurate representation of discrimination, and the findings of the Ombudsperson may not fully reflect the overall situation, considering that, in practice, there may be even more cases of discrimination than those documented in this report.

The total number of complaints recorded in the Department for Protection Against Discrimination of the Ombudsperson is 142, of which 95 were opened for investigation, while 47 were declared inadmissible. Out of these 142 complaints, 61 were filed with allegations of discrimination, 41 of which were opened for investigation, while 20 were deemed inadmissible.

During the reporting period, 9 cases were initiated *ex-officio*.

The nature of the complaints alleging discrimination concerns health and social issues, pension-related matters, employment relations (including recruitment, promotions, coefficient allocation, workplace mistreatment, termination of employment contracts, etc.), minority community rights, obstacles in exercising rights due to non-recognition of religious communities, and other related issues. The alleged grounds for discrimination include disability, age, ethnicity, religion, social status, gender, sexual orientation, health condition, political affiliation, and other grounds protected under Article 1 of the Law on Protection against Discrimination.

Among 14 published reports with recommendations, based on received complaints or *ex-officio* cases, 6 reports contain findings of human rights violations, unequal treatment, and discrimination.

In addition, the Ombudsperson has published 2 Opinions, 2 *Amicus Curiae* Opinions, and 1 Constitutional Request, all related to the Ombudsperson's findings on discrimination.

When addressing findings related to discrimination in Kosovo, the Ombudsperson bases its assessments on positions expressed through Reports with Recommendations and Opinions addressed to the responsible authorities, all of which are published on the official website of the Ombudsperson Institution and summarized in this chapter.

Normative Acts in Relation to the Principle of Non-Discrimination

Regulation (MFLT) No. 02/2023 on the Allowance on Labour Market

The Ombudsperson has published a Report with Recommendations⁹⁴ in which they have requested the amendment of Regulation (MFLT) No. 02/2023 on the Allowance on Labour Market.

The provisions of this Regulation establish five categories of professions and deficit professions, for which compensation for labour market conditions can be granted, as well as an additional category "*professions from study programs financed or co-financed by the Government of the Republic of Kosovo*", for which, in addition to the general conditions, the Regulation stipulates special conditions for additional benefits that employees must meet cumulatively. Specifically, employees must have *completed second-level studies of higher education in study programs financed or co-financed by the Government of the Republic of Kosovo and must have completed their second-level higher education studies at universities abroad*.

Based on the analysis of the circumstances of the case, the Ombudsperson had concluded that the Regulation with the aforementioned conditions, in a comparable situation, had placed civil service employees in Kosovo in an unequal and unfavourable position. These employees, in pursuit of a higher level of education, had self-financed their studies abroad and completed them without financial support from the Government or

⁹⁴ *Ex-officio* no. 224/2023

had completed their studies and obtained the corresponding deficit qualifications at licensed public or private higher education institutions in the Republic of Kosovo. This type of treatment constituted direct and multiple discrimination.

The Ombudsperson in this case concluded that there was discrimination and requested the amendment of the provisions of this Regulation that created unequal treatment, contrary to the principle of equal pay for equal work.

Law No. 08/L-228 on General Elections

On January 16, 2024, the Ombudsperson raised before the Constitutional Court the issue of the constitutionality of Article 28 of Law No. 08/L-228 on General Elections in the Republic of Kosovo, which defines the gender quota in the lists of candidates of each political entity, according to which at least thirty (30%) percent must be male and at least thirty (30%) percent must be female. The Ombudsperson in the constitutional request considered that the definition of the quota (at least 30%) for each gender does not, at first glance, represent unequal treatment between men and women. However, in practice, there have been no cases where political entities have submitted certification lists of candidates with 50% women and 50% men. According to the Ombudsperson, maintaining the 30% criterion justifies unequal treatment because political entities fulfill the legal criterion for running in elections by submitting candidate lists with 30% women in the electoral lists, while the remainder is left to their discretion. Consequently, in practice, women remain consistently underrepresented.

The Constitutional Court, on December 27, 2024, through Judgment KO 15/24, decided that Article 28 [Gender Quotas] of Law No. 08/L-228 on General Elections in the Republic of Kosovo is not in conflict with Article 45 [Electoral Rights and Participation] of the Constitution of the Republic of Kosovo.

The Ombudsperson draws attention to the fact that the object of the constitutional request was the assessment of the constitutionality of the contested Article 28 of the Law and whether this article is in conflict with Articles 7 [Values], 24 [Equality before the Law], and paragraph 1 of Article 45 [Electoral Rights and Participation] of the Constitution of the Republic of Kosovo.

The Ombudsperson notes that the Judgment of the Constitutional Court concluded that Article 28 of Law No. 08/L-228 on General Elections in the Republic of Kosovo is not in conflict with Article 45 [Electoral Rights and Participation] of the Constitution of the Republic of Kosovo. However, there is no finding regarding the compatibility of Article 28 of the Law with the Values and Equality before the Law, leaving this judgment incomplete and unjustified by failing to address the key issues raised by the Ombudsperson regarding whether the contested act is in compliance with Articles 7 [Values] and 24 [Equality before the Law].

Nevertheless, the Ombudsperson believes that such a determination is not in harmony with the spirit of the Constitution, which stipulates that the Republic of Kosovo aspires to ensure gender equality as a fundamental value for the democratic development of society. The Ombudsperson had expected a stronger reaction from activists and defenders of women's rights regarding gender equality. In this regard, the Ombudsperson, as an equality body, will continue to engage with all its capacities to advance gender equality until achieving equal representation between women and men in all processes.

Discrimination on the Basis of Age

The Ombudsperson has continued to address issues related to age-based discrimination. According to the Council of Europe, *Ageism*⁹⁵— defined as stereotypes, prejudices, and discriminatory practices based on age – reinforces the perception that inequalities and discrimination against

95 <https://rm.coe.int/as-ega-report-overcoming-age-based-discrimination-against-older-person/1680b2ba50#:~:text=In%20a%20statement%20from%202023,which%20reflect%20or%20reinforce%20ageism>

older people are natural or inevitable, which is not the case. Older persons should face a discourse that draws attention to the consequences of demographic shifts toward an older population, the “burden” they represent, and the “high cost” of ensuring their equality and human rights.

From the findings of the Ombudsperson, it appears that age-based discrimination is often intertwined with other grounds protected by the LPD. Older persons are generally victims of multiple discrimination, as, in addition to discrimination based on age, they also face other forms of discrimination.

The Ombudsperson’s Report, *ex-officio* no. 601/2023, regarding the state’s obligations for supporting and providing mental health services for persons over 65 years of age in the Republic of Kosovo,⁹⁶ brings an analysis and evaluation concerning the state’s obligations in providing support and mental health services for persons over 65 in relevant institutions in Kosovo.

The Ombudsperson considers that mental health services and social care services, including hospital and residential care, offered by relevant institutions, are not adapted to address the specific needs and challenges faced by individuals over 65 years of age. The age limit of 65 years as a criterion for admission to residential institutions constitutes a violation of the provisions of the Law on Social and Family Services and the Law on Protection from Discrimination.

During the investigation into the case of the domestic violence victim, S.D.,⁹⁷ which resulted in a fatality, the Ombudsperson encountered significant issues regarding the lack of accommodation in residential institutions for persons over 65 years old. According to the Ombudsperson, this constitutes a violation of the Law on Social and Family Services and the Law on

Protection from Discrimination. Moreover, the absence of subordinate acts under the Mental Health Law challenges the law’s implementation and creates space for discriminatory practices in providing mental health services, especially regarding the age limitation for individuals over 65. The lack of subordinate acts, the absence of clear criteria in existing subordinate acts, the repeal of subordinate acts by government decisions⁹⁸ and the restriction of legally guaranteed rights through subordinate acts are contrary to the principles of the rule of law. The state’s failure to provide care for individuals over 65 with mental disorders has resulted in violence and death, as seen in this particular case.

Age-based and gender-based discrimination is a form of multiple discrimination when victims simultaneously face discrimination based on age and gender. Victims are predominantly women before and after retirement. During the reporting year, the Ombudsperson handled a case (R/50/2024 S.G.P against the Independent Commission for Mines and Minerals – ICMM) regarding the decision to terminate the employment relationship of the chairperson of the ICMM Board. On December 6, 2021, the Assembly of the Republic of Kosovo elected the ICMM Board for a five-year term, during which the complainant was elected chairperson. However, on December 29, 2022, three board members decided to retire the complainant based on the Law No. 03/L-163 on Mines and Minerals and Law No. 04/L-158 amending and supplementing Law No. 03/L-163. From the description of the case, it seems that three board members overstepped their competences by making a decision regarding the complainant’s mandate, a competence which belongs to the Assembly of Kosovo as her appointing body. On October 26, 2023, the Assembly of Kosovo decided to dismiss her, following a recommendation

96 <https://oik-rks.org/2024/09/10/raport-i-avokatit-te-popullit-ex-officio-nr-601-2023-ne-lidhje-me-detyrimet-e-shtetit-per-mbeshtetjen-dhe-ofrimin-e-sherbimeve-te-shendetit-mendor-per-personat-e-moshes-mbi-65-vjecare-ne-republiken/>

97 *Ex-officio* case no. 601/2023

98 Administrative Instruction No. 07/2009 (in Health) for Professional Services of Mental Health in the Republic of Kosovo, repealed by the Decision of the Government of the Republic of Kosovo, No. 02/50, dated 23.12.2021

from the Committee on Economy, Industry, Entrepreneurship, and Trade.

In the Ombudsperson's request regarding the legality of the retirement decision, KPMM justified the retirement as being based on the complainant reaching retirement age, while the law does not specify a retirement age for appointees by the Assembly. The Ombudsperson had even requested an authentic interpretation from the Assembly of the Law No. 03/L-163 on Mines and Minerals, as amended by Law No. 03/L-163, specifically Article 59, paragraph 3, which states: *"Each member of the ICMM Board holding office as of the effective date of the present law shall continue to serve in that position until [...] or lawful removal from such position [...]"* but did not receive a response. Furthermore, from the response of ICMM to the Ombudsperson's inquiry regarding whether there have been cases where board members continued their mandate after reaching retirement age, it was learned that, in a similar case, one of the male board members (2010-2014) continued his mandate until its completion, despite reaching the retirement age. Regarding this case, the Ombudsperson published an Opinion⁹⁹ on December 3, 2024, concerning the obligations of state organs to act in accordance with the principles of LPD and applicable legislation during the exercise of their duties and responsibilities.

Another form of multiple discrimination appears in the case of elderly persons with disabilities who do not receive adequate accommodation and face additional health difficulties. Elderly persons from poor backgrounds who do not have pension savings, secure housing, or sufficient medical care face economic and social inequalities, particularly those elderly persons who have not been able to acquire the right to a contributory pension or do not have savings

in the pension trust.

The Ombudsperson draws attention to a case opened *ex-officio* regarding the failure of the University Clinical Center of Kosovo (UCCCK) to provide prosthetic limbs for persons over 65 years old. It is important, we well, to mention that during the reporting year, a number of complaints were received regarding the low value of pensions. The Ombudsperson believes that despite an increase in basic pensions, the amount of 120 EUR is far too low to meet the needs of elderly persons, and the increase in the number of complaints about the low basic pension is an indicator of worsening economic and social conditions for elderly individuals.

Discrimination Based on Disability

During the reporting year, the Ombudsperson continued to monitor issues related to the rights of persons with disabilities.

Monitoring the implementation of recommendations from the Ombudsperson's Report *ex-officio* no. 479/2022¹⁰⁰ regarding the accessibility assessment for persons with disabilities based on Administrative Instruction no. 33/2007 for Construction Buildings Technical Terms of Accessibility to Disabled Persons in the Municipalities of the Republic of Kosovo highlights that municipalities have not made efforts to implement the Ombudsperson's recommendations for creating accessibility for persons with disabilities.

The Ombudsperson draws attention to the fact that regarding the implementation of legislation related to the employment of persons with disabilities in central institutions and local self-government bodies in Kosovo, on December 23, 2023, it published a report with *ex-officio* recommendations no. 519/2022.¹⁰¹ According to the findings of the Ombudsperson, there is a lack of enforcement

99 <https://oik-rks.org/2024/12/05/avokati-i-popullit-opinion-r-nr-50-2024-ne-lidhje-me-detyrimet-e-organeve-shteterore-per-te-vepruar-ne-perputhje-me-parimet-e-ligjit-per-mbrojtje-nga-diskriminimi/>

100 <https://oik-rks.org/en/2023/12/29/report-of-the-ombudsperson-ex-officio-no-4792022-with-regard-to-assessment-of-accessibility-of-persons-with-disabilities-based-on-administrative-instruction-no-332007-for-construction-buildings-tec/>

101 <https://oik-rks.org/2023/12/18/raport-i-avokatit-te-popullit-ex-officio-nr-5192022-ne-lidhje-me-punesimin-ne-institucionet-qendrore-dhe-ne-organet-e-vetqeverisjes-lokale-ne-kosove-te-personave-me-aftesi-te-kufizuar/>

of laws related to the employment of persons with disabilities, and specific measures were recommended to the government to enable a universal solution to the challenges in the labour market, ensuring equal rights and opportunities for persons with disabilities and the implementation of relevant provisions of international and national legal instruments.

The Ombudsperson notes that the Ministry of Finance, Labour, and Transfers (MFLT) issued Administrative Instruction MFLT-no. 01/2024 on the Regulation of Competition Procedures in the Public Sector, Article 6, paragraph 1 of which addresses the announcement of public competitions for persons with disabilities. Although during the reporting year, the Ombudsperson received a complaint¹⁰² regarding Article 6, paragraph 1 of this Administrative Instruction, after investigating and analysing the issue, it concluded that the provisions of this article represent a targeted measure, based on objective and reasonable reasoning, that contributes to fulfilling the legal obligation for the employment of persons with disabilities, where a public institution *“with the internal act makes identification of positions for this category and announces a competition to fill these jobs.”*

Depending on the degree of disability, the employer is legally obligated to determine suitable work positions. This means that this administrative instruction recognizes the objective and reasonable need for a public institution to define positions based on job responsibilities and duties, which, according to qualifications, can be efficiently performed without hindrances by persons with disabilities, without risking their health condition.

Regarding the *ex-officio* Report no. 521/2022¹⁰³ on the re-assessment of disability for the recognition of the status of paraplegic and tetraplegic persons under Law no. 05/L-067 on the Status and the Rights of Persons with Paraplegia and Tetraplegia, one of the recommendations

sent to the Ministry of Finance, Labour, and Transfers (MFLT) was to amend and update Regulation (GRK) No. 07/2017 on the Composition, Functions, Responsibilities of Assessment Commission and Determination of Procedures for Recognition of Status and Rights of Paraplegic and Tetraplegic Persons by removing the entire paragraph 1 of Article 9, which mandates the re-assessment of the disability of these persons every five years.

On April 4, 2024, the Ombudsperson received a response from the Ministry of Finance, Labour, and Transfers (MFLT), stating that the relevant regulation was under revision and would be submitted to the Government of the Republic of Kosovo for review and approval.

By Decision No. 08/216, dated August 14, 2024, the Government of the Republic of Kosovo approved Regulation (GRK) No. 23/2024 on the Procedures and Criteria for Assessment and Recognition of the Status and Rights of Paraplegic and Tetraplegic Persons. Article 8, paragraph 2 of this regulation stipulates that *“The recognition of the paraplegic/tetraplegic status of the applicant is permanent and is not subject to the regular re-evaluation process.”* This provision implements the recommendation issued by the Ombudsperson in the *ex-officio* Report No. 521/2022.

During the reporting year, the Ombudsperson was informed about the situation of deaf individuals who, despite completing upper secondary education with high grades on their diplomas, lack literacy skills. In response, the Ombudsperson initiated an *ex-officio* investigation to determine whether appropriate curricula and measures exist to ensure the educational preparation of deaf individuals and their integration into the labour market in Kosovo. In addition, it is of interest to assess whether there are qualified and competent teaching staff who can effectively address the specific learning needs of these individuals.

The Ombudsperson also received an

102 R. no. 274-2024

103 <https://oik-rks.org/en/2023/12/22/recommendation-report-of-the-ombudsperson-of-republic-of-kosovo-ex-officio-no-5212022-versus-ministry-of-finance-labour-and-transfers-regarding-the-legal-basis-for-t/>

individual complaint regarding the absence of a driving test in sign language for deaf individuals, a case that is currently under investigation.

Furthermore, the Ombudsperson reviewed a complaint concerning the obligations of state authorities to act in accordance with the principles of the LPD and the applicable legislation regarding the provision of dental healthcare services. During the investigation, violations of fundamental human rights and freedoms by the University Clinical Stomatological Center of Kosovo (UCSCK) were identified in connection with a complaint filed by a girl with disabilities regarding the lack of dental healthcare services adapted to her specific needs. The Ombudsperson considers that the failure of UCSCK to provide dental treatment in accordance with her specific conditions constitutes discrimination based on her health status and disability. Furthermore, the Ombudsperson notes that this case highlights a broader issue that potentially affects other persons with disabilities or individuals with specific health conditions when seeking dental services. It appears that healthcare personnel at UCSCK lack sufficient awareness regarding the treatment of persons with disabilities and those with specific health conditions in the provision of dental healthcare services. As a result, the girl's parents were compelled to seek dental services in Albania at their own expense, further exacerbating the family's financial burden.

The Ombudsperson also published a Report with Recommendations¹⁰⁴ concerning Decision No. 43/III/2024 of the Ministry of Health, dated March 22, 2024, which pertains to the coverage of medical treatment for individuals with the status of war invalids of the Kosovo Liberation Army (KLA). The Ombudsperson found that Decision No. 43/III/2024, issued by the Ministry of Health, constitutes discrimination and violates the principle of equal treatment as outlined in the Law on Protection against Discrimination. This is because the decision exclusively provides benefits for individuals with the

status of KLA war invalids while excluding individuals with the *status of civilian war invalids*, despite the fact that both categories are entitled to the same benefits as explicitly defined in Article 6, paragraph 1.7 of Law No. 04/L-054 on the Status and the Rights of Martyrs, Invalids, Veterans, Members of the Kosova Liberation Army, Civilian Victims of War and Their Families.

On December 26, 2024, the Ombudsperson received a response from the Minister of Health, informing that on December 3, 2024, a new decision was issued, obligating the Board for Medical Treatment Outside Public Health Institutions to allow civilian war invalids, when applying for medical treatment outside public health institutions, to select their preferred provider for prosthetic replacement, maintenance, or placement, with financial coverage being provided accordingly.

Discrimination Based on Health Condition

During the reporting year, the Ombudsperson handled three complaints regarding the necessity of taking appropriate measures to expand the Essential Medicines List by including new medications that could significantly improve the health and quality of life of citizens suffering from severe illnesses. The Ombudsperson published a report with recommendations, urging the Ministry of Health to expand the list by incorporating new medicines that are essential for more effective medical treatment and crucial for individuals in need of such care.

Regarding healthcare services in public health institutions, the Ombudsperson finds that citizens continue to face inadequate medical services, substandard treatment, and ongoing referrals to private clinics – either directly or through various forms of discouragement from continuing treatment in public healthcare institutions. The lack of a fully operational Health Information System and the absence of health insurance disproportionately affect the most vulnerable citizens, who, unable to afford private clinic

104 R. no. 522/2024

services, rely on public hospitals where healthcare provision often fails to meet even minimal standards. Particularly concerning is the approach toward patients, which needs improvement to ensure dignified treatment. Concerning the absence of a fully functional Health Information System and its impact on citizens' rights to healthcare services, the Ombudsperson published the *ex-officio* Report No. 241/2022 this year, addressing the consequences of this issue on the delivery of healthcare services.

Discrimination Based on Freedom of Belief, Conscience, and Religion

The Ombudsperson assesses that in Kosovo, the Freedom of Belief, Conscience, and Religion is generally respected in accordance with the Constitution and applicable international instruments in the Republic of Kosovo. Nevertheless, the Ombudsperson has addressed two issues related to this fundamental freedom.

The first issue concerns the non-recognition of religious communities and the lack of legal status for certain religious groups, stemming from inadequate legal regulation and the need for a new law on religious freedoms. Although the current Law on Freedom of Religion in Kosovo clearly establishes the state's neutrality regarding religious beliefs, as specified in Article 5, which states that "*there shall be no official religion*", it does not define the procedure for recognizing religious communities.

The second issue pertains to the content of population registration forms, in which only certain religious beliefs in Kosovo are listed, despite the fact that the Law on Religious Freedoms stipulates that there shall be no official religion in Kosovo.

In both cases, the Ombudsperson considers that the primary obstacle to clearly defining the legal status of religious communities is the failure to adopt the Law on Religious Freedoms. Law No. 02/L-31 on Religious Freedom in Kosovo, Article 5, paragraph 4, stipulates that: "To all religions and their communes in Kosovo including Islamic

Community of Kosovo, Serbian Orthodox Church, Catholic Church, Hebrew Belief Community, and Evangelist Church, shall be offered any kind of protection and opportunity in order to have rights and freedom foreseen by this law."

Based on Article 53 of the Constitution, which mandates that human rights and fundamental freedoms guaranteed by the Constitution shall be interpreted in harmony with the case law of the European Court of Human Rights (ECtHR), the Ombudsperson has analysed several cases of this court regarding legal recognition and registration of religious communities. The ECtHR recognizes freedom of belief, conscience, and religion under Article 9 of the European Convention on Human Rights (ECHR).

According to the ECtHR, states must remain neutral and impartial in religious matters (Hasan and Chaush v. Bulgaria, 2000).

Regarding legal recognition and registration, states have some discretion to impose conditions for the legal recognition of religious groups (Moscow Branch of Jehovah's Witnesses v. Russia, 2010). However, arbitrary denial of registration or recognition may violate Article 9 and Article 14 (Prohibition of Discrimination) of the ECHR.

The ECtHR holds that no monopoly should exist for a particular religious denomination. A state cannot grant exclusive legal status to one religious branch while excluding others without legitimate justification (Metropolitan Church of Bessarabia v. Moldova, 2001).

Internal religious matters (such as conflicts between branches of the same religion) should be left to religious communities themselves, not the state (Sindicatul "Păstorul cel Bun" v. Romania, 2013). However, states must not make arbitrary distinctions between branches of the same religion in a way that restricts fundamental rights (Church of Scientology Moscow v. Russia, 2007).

Another issue for which the Ombudsperson

received a complaint during the reporting year concerns the expulsion of a student from school for wearing a headscarf. Regarding this case, which the Ombudsperson has initiated an investigation into, the Administrative Instruction No. 06/2014 of the Ministry of Education, Science, and Technology, titled Code of Conduct and Disciplinary Measures for Students of Secondary High Schools, has been analysed. This administrative act prohibits students from wearing religious uniforms in public pre-university schools in Kosovo. This issue has been the subject of ongoing debate for a long time. The Ombudsperson has previously taken public positions on this matter.

Considering that this issue persists and remains unresolved, upon completing the ongoing investigations, the Ombudsperson will publish an opinion on the matter. The Ombudsperson's stance is that the MEST Administrative Instruction No. 06/2014 does not meet the criterion of legality. This is because the Law on Pre-University Education does not provide a sufficient legal basis for such a restriction, and the instruction fails to clarify what constitutes a religious uniform. The lack of definition regarding religious uniforms or symbols has resulted in the prohibition of school attendance primarily for girls wearing headscarves, which in this specific case could amount to multiple discrimination. Furthermore, available information indicates that some schools in different municipalities allow headscarf-wearing girls to attend classes while others do not, creating an unpredictable and somewhat arbitrary situation. The Ombudsperson considers the right to education vital for a child's development and reminds relevant authorities that in this case, they must prioritize the best interests of the child, as derived from the Constitution and the Convention on the Rights of the Child. Article 3.1 of the Convention states: "In all actions concerning children, whether undertaken by public or private social welfare institutions,

courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

The Ombudsperson has obtained data from the Kosovo Police, according to which, during the period from January to December 2024, there were 53 cases of attacks on religious sites. Of these, 34 cases (64%) occurred in Muslim sites, 16 cases (30%) in Orthodox sites, and 3 cases (6%) in Catholic sites. The nature of the attacks includes 36 cases (68%) related to theft and aggravated theft, 16 cases (30%) involving destruction or damage to property, desecration of graves or corpses, and 1 case (2%) categorized as incitement to discord or intolerance.

Gender Equality

The Constitution¹⁰⁵ establishes that *"The Republic of Kosovo ensures gender equality as a fundamental value for the democratic development of the society, providing equal opportunities for both female and male participation in the political, economic, social, cultural and other areas of societal life."* Meanwhile, the Law on Gender Equality,¹⁰⁶ designates the Ombudsperson as an equality institution responsible for addressing cases related to gender-based discrimination.

In fulfilling its mandate as an equality institution, the Ombudsperson has handled and concluded two cases concerning gender equality.

Gender Equality in Employment Rights

On December 13, 2024, the Ombudsperson published the *Ex-officio* Report 535/2019 regarding the implementation of special measures foreseen in Article 6 [Special Measures] of Law No. 05/L-020 on Gender Equality. This report examines the application of such measures by legislative, executive, and judicial bodies at all levels, as well as other public institutions in Kosovo.

Under Law No. 05/L-020 on Gender Equality, public institutions are obliged to take

¹⁰⁵ Constitution, Article 7, paragraph 2

¹⁰⁶ Law on Gender Equality, Article 13

temporary special measures to accelerate the achievement of *de facto* gender equality in areas where disparities persist.

In order to assess compliance with these obligations, the Ombudsperson distributed a questionnaire to institutions, authorities, and public bodies to gather information on gender representation and measures taken to ensure gender equality. By the time of publication, 50 public authorities – including central and local institutions – had responded.

The data collected, categorized into three main levels of institutional hierarchy – senior management, mid-level management, and support staff – indicate a significant gender imbalance.

On average, senior leadership positions continue to be significantly male-dominated, with men representing 77.1% and women only 22.9%. Meanwhile, at the other two levels, based on available data, women make up approximately 31%, while men account for around 69%. Consequently, it can be concluded that the state administration remains predominantly male, particularly in high-level decision-making positions.

Regarding the implementation of Law No. 05/L-020 on Gender Equality, the Ombudsperson has published a Report with Recommendations concerning gender-based discrimination in the selection process for the Deputy Director of Radio Television of Kosovo (RTK). The Ombudsperson has assessed that the regular and fair process conducted by RTK in this case has been called into question. This is not only due to the fact that the issue was returned for reconsideration to the same Selection Committee, which, with the shortcomings identified by the Appeals Commission, had compromised the recruitment process, but also because the lack of clarity and transparency in internal employment regulations has multiple negative effects on the rights of candidates and employees. The frequent changes in internal regulations, in this case within a three-month period – from the amendment of the *Regulation on Procedures for the Selection of the General Director and Senior Management of RTK*,

dated 17.05.2022, with protocol number 0097/22, to the issuance of Regulation No. 0165/22 on Procedures for the Selection of the General Director and Senior Management of RTK, dated 08.09.2022 – create legal uncertainty. Legal certainty is one of the key elements of the principle of the rule of law. This principle ensures that laws, in this case, regulations, are clear, precise, and predictable.

The Ombudsperson considers that, in this particular case, the principle of equality has also been violated, given that out of the four candidates who underwent the recruitment process, the complainant was the only female candidate.

Regarding the issue of employment in the public sector, on December 23, 2024, the Ombudsperson published an Opinion on the obligations of state bodies to act in accordance with the principles, general rules, admissibility conditions, and handling of citizens' complaints, as defined by the Law on General Administrative Procedure. The Opinion was addressed to the Mayor of the Municipality of Fushë Kosovë and, for information purposes, was also sent to the Minister of the Ministry of Local Government Administration and the Office of the Prime Minister/Office for Good Governance.

The case concerns an application for the position of dentist at the Main Family Medicine Center (MFMC) in Fushë Kosovë, in competition No. 686, announced on July 7, 2022, by the Municipality of Fushë Kosovë/Directorate for Health and Social Welfare. According to the complainant, the selection committee had informed her about the written test scheduled for July 29, 2022, whereas she had not been notified at all about the oral interview.

Furthermore, the complainant stated that she only became aware of the candidates' names and their scores on the written test and oral interview when she visited the QKMF in Fushë Kosovë, where the list with names had been published. Next to her name, only the written test score was provided, while in the column for the oral interview score, it was marked "*did not appear*." The complainant

added that, against this published list, on August 29, 2022, she submitted an appeal via mail to the Appeals Commission of the Municipality of Fushë Kosovë, but according to her, she never received a response to her appeal.

The Ombudsperson has not received a response to the Opinion sent, assessing that, in addition to the violations highlighted in the Ombudsperson's Opinion, the Municipality of Fushë Kosovë is among the least cooperative municipalities with the Ombudsperson Institution.

Gender Equality in the Right to Property and Inheritance

Based on the data from the Kosovo Cadastral Agency reflected in the agency's annual reports, a trend of increasing property registration in the names of women is observed. However, the number of female property owners remains low. Recent data shows that only 19.79% of registered properties are owned by women.

On November 20, 2024, the Ombudsperson held a roundtable addressing issues related to women's property rights and the actions of public authorities.

The joint conclusion from this roundtable is that the legislation of the Republic of Kosovo guarantees fully equal property rights for all individuals, without discrimination, and contains safeguards for the realization of these rights.

Despite this fact, the main challenges in the full enjoyment of property rights by women in practice are customary rights, cultural norms, informality, insufficient information on inheritance rights, failure to inform all heirs about initiating inheritance procedures, and delays in judicial procedures related to property rights issues. Additional challenges include renouncing inheritance, exercising inheritance rights in non-marital unions, and a number of other issues raised by both panellists and participants.

One of the issues that is consistently identified as an obstacle to the realization of property rights for women and girls, and

which was also discussed in this roundtable, is renunciation of property, which is defined by law. However, regarding this right, there are differing views on whether renunciation should occur after acquiring property, as this would strengthen the position of women and girls in terms of their rights.

The main conclusions that emerged from this roundtable are the full implementation of laws related to property rights, raising awareness, and fully informing women about their rights guaranteed by the Constitution and law, as well as reducing informality in property rights.

Responsibility of Public Authorities for Protection against Domestic Violence

At the end of October 2023, Law No. 08/L-185 on the Prevention and Protection from Domestic Violence, Violence Against Women, and Gender-Based Violence entered into force. Unlike Law No. 03/L-182 on Protection against Domestic Violence, the new law brings changes and improvements in the protection against domestic violence, violence against women, and gender-based violence. The innovations brought by the new law not only include domestic violence but also violence against women and gender-based violence, addressing a broader spectrum of forms of violence. The definitions of forms of violence have been expanded, including physical, psychological, sexual, economic violence, and other forms of gender-based violence. Mechanisms for the prevention and treatment of cases of violence have been defined, as well as the improvement of coordination between relevant institutions. Educational and awareness-raising fields have been foreseen, and mechanisms for reporting and monitoring cases of violence have been established, ensuring the collection of accurate data and prompt actions.

Since April 14, 2019, the Criminal Code No. 06/L-074 of the Republic of Kosovo has been in force, which criminalizes domestic violence as a special criminal offense. Forms of committing this criminal offense

include physical, sexual, psychological, and economic abuse. This criminal offense is one of the offenses that is prosecuted *ex-officio* and not upon request. The criminalization of domestic violence is a standard established by the Istanbul Convention. Also, according to the standards set by this convention, the criminal prosecution for domestic violence is not conditioned on the victim's proposal.

On December 10, 2024, within the framework of the 16 days of activism against gender-based violence, the electronic monitoring bracelet system was launched. The Ombudsperson assesses that the activation of this system is the implementation of the law after 10 years and enables electronic monitoring of protective measures, such as restraining the contact of the protected party. The launch of the electronic bracelet system has been addressed and repeatedly emphasized by the Ombudsperson for years, and it has in fact been an obstacle to the implementation of Law No. 05/L-003 on the Electronic Supervision of Persons Whose Movement Is Limited by the Decision of the Court, a law that should have been implemented since July 1, 2015.

Consequently, it can be said that Kosovo has taken numerous actions in the direction of preventing and protecting against domestic violence, violence against women, and gender-based violence. However, domestic violence, violence against women, and gender-based violence continue to remain widespread, and year by year, the numbers have increased. According to data provided by the Kosovo Police, there continues to be an increase in cases of domestic violence. While last year 2,460 cases were reported, this year 2,547 cases have been reported.

According to the information requested from the Kosovo Police for the year 2024, 102 cases of sexual harassment have been reported according to Article 183, Sexual Harassment.

Nevertheless, the Ombudsperson, from the investigation of cases related to domestic violence and violence against women, and the oversight of the actions of the relevant authorities in handling cases of violence, has repeatedly concluded that cases of domestic violence have not been adequately handled, with the state failing to fulfil its positive obligations to protect the right to life and protection from domestic violence.

While there is an advanced legal framework regarding the prevention and protection from domestic violence, domestic violence remains a concerning phenomenon. The Ombudsperson assesses that the issue lies in the incomplete implementation of policies, strategies, laws, and standards by the responsible authorities.

Through its addressed reports, the Ombudsperson has continuously drawn attention to the positive obligations of the state in taking appropriate measures for the protection of the right to life and protection from domestic violence, stating that these measures must be coordinated, effective, and in line with legislation and standard operating procedures.¹⁰⁷

Civil society organizations have expressed similar positions in their research reports regarding the state's failure to protect against domestic violence. In this regard, reference can be made to the report published by the Kosovo Law Institute (KLI), *The Istanbul Convention in Court Judgments in Kosovo*¹⁰⁸, which highlights issues related to the judiciary's handling of domestic violence cases.

This report analysed 50 court rulings related to domestic violence. According to the report, domestic violence cases are handled within a reasonable timeframe, with an average case processing time of 266 days or 8.5 months from the moment of

107 <https://oik-rks.org/en/2022/07/22/ombudspersons-report-ex-officio-no-132022-with-regard-to-states-positive-obligations-to-protect-the-right-to-life-and-to-ensure-protection-from-domestic-violence/>
<https://oik-rks.org/en/2021/04/27/ombudspersons-ex-officio-report-no-1502021-with-regard-to-states-positive-obligations-for-the-right-to-life-and-protection-from-domestic-violence/>

108 <https://kli-ks.org/konventa-e-stambollit-ne-aktgjykimet-e-gjykatave-ne-kosove/>

the offense to the pronouncement of the first-instance verdict. Furthermore, it was found that the legal qualification of the criminal offense in domestic violence cases is not done in accordance with the Criminal Code and the Guidelines of the Supreme Court of Kosovo regarding the legal qualification and handling of domestic violence cases under the Criminal Code of Kosovo. Of the 50 analysed cases, 29 were prosecuted under Article 248 of the Criminal Code as the criminal offense of domestic violence, while in 6 cases, domestic violence was combined with another criminal offense. Other cases were classified as minor bodily harm, assault, or threats, for which the Criminal Code prescribes lighter penalties than for domestic violence. According to the findings of this report, it was established that lenient punishments are applied in domestic violence cases, considering that a small number of cases resulted in effective imprisonment. Out of the 50 analysed verdicts, 37 resulted in suspended sentences, while only 5 individuals received effective prison sentences from the basic courts. Moreover, as stated in the report, a scandalous case of domestic violence was identified where the State Prosecutor unlawfully withdrew the charges, justifying the decision by stating that the parties were former spouses, thereby unlawfully amnestying the defendant for domestic violence. Moreover, the analysis of 50 first-instance court rulings shows that out of these cases, only in 11 instances were domestic violence victims represented in judicial proceedings through victim advocates. In two cases, it was impossible to determine whether the victims had legal representation during the trial.

The Ombudsperson assesses that despite the measures taken, the approved strategies, and the advancement of legislation aimed at preventing and protecting against domestic and gender-based violence, the prevalence of domestic violence remains

high, as indicated by the number of reported cases. Therefore, it is essential that the responsible authorities, in coordination, reassess institutional policies to focus on prevention through early education, public awareness, and other measures that would contribute to prevention. It is crucial to unify protective measures and punitive policies by the courts to ensure the victims' right to justice. Institutional policies adopted for the economic empowerment of victims must be effectively implemented as a prerequisite for preventing repeat offenses and re-victimization, as well as other measures aimed at strengthening the position of women in society.

Women victims/survivors of sexual violence during the war

Given the ongoing concerns raised regarding the verification and recognition process of the status of victims of sexual violence during the war in Kosovo, the challenges and difficulties faced by these victims, as well as the obstacles in accessing the benefits they are entitled to under the law, the Ombudsperson initiated an investigation into this matter *ex-officio* in 2023.¹⁰⁹

The Ombudsperson's approach to addressing this issue, from the perspective of protecting fundamental human rights and freedoms, focuses on several key aspects: ensuring that the commission adheres to legal deadlines in the application review process for status recognition and verification; individualizing the reasoning of decisions for each case separately, avoiding standardized or identical justifications for different cases; addressing the time limitation for submitting applications; organizing and conducting the interview process for victims, including their access to the premises where interviews take place; and raising public awareness and sensitization regarding the application process for recognition and verification of victim status.

On August 24, 2024, the Ombudsperson published a report on the respect for human

¹⁰⁹ *Ex-officio* case no. 436-2023

rights in the process of recognizing and verifying the status of victims of sexual violence during the Kosovo Liberation War, as well as the obstacles in accessing legally guaranteed benefits. The report was submitted to the relevant authorities for review and further action.

The Ombudsperson found that Regulation No. 22/2015 on Defining the Procedures for Recognition and Verification of the Status of Sexual Violence Victims during the Kosovo Liberation War contains legal gaps that create uncertainty and ambiguity in the recognition process. Specifically, there is no clear definition of time limits for conducting the procedure and issuing decisions, leading to confusion due to inconsistencies between the deadlines set in the regulation and those outlined in the Law on General Administrative Procedure. In addition, the terminology used for available legal remedies, such as “appeal” and “request for reconsideration”, is unclear and inconsistent with the applicable law.

The Ombudsperson also raised concerns about the treatment of victims during the interview process, emphasizing the need to maintain confidentiality, avoid re-traumatization, and ensure appropriate infrastructure conditions. It is essential that the facilities where interviews take place are accessible to all individuals, including persons with disabilities, and that scheduling is arranged in a manner that prevents victims from encountering one another.

The report also highlights delays in issuing identification cards to victims, as provided for in Article 37 of the Regulation, as well as the lack of provisions for psychosocial support, which is essential for their reintegration into society.

Specific recommendations were addressed to the Government, the Ministry of Internal Affairs, the Ministry of Finance, Labour, and Transfers, as well as the Kosovo Judicial Council, to ensure the protection and respect of the rights of victims of sexual violence during the war in Kosovo.

In 2023, the Special Prosecution Office of Kosovo (PSRK) filed the first indictments for trial *in absentia* before the Basic Court

in Prishtina – Special Department, against individuals accused of rape during the war in Kosovo. The first indictment was filed on May 2, 2023. Furthermore, the Supreme Court of Kosovo ruled on the first conviction for sexual violence during the war, rejecting as unfounded the requests for the protection of legality submitted by the convicted person Z.V. and their legal representative. These requests were filed against the judgment of the Basic Court in Prishtina – Special Department (PS. no. 28/2022) dated November 11, 2022, and the judgment of the Court of Appeals – Special Department (APS. no. 50/2022) dated February 15, 2023.

Discrimination on the Basis of Ethnicity

The Ombudsperson has also analysed data regarding ethnic representation in the public sector. Regarding employment in the public sector from non-majority communities, on August 30, 2024, the Ombudsperson sent a letter to the Ministry of Internal Affairs (MIA) requesting information on the implementation of Law No. 08/L-197 on Public Officials concerning the representation of non-majority communities, which according to the law should be 10% at the central level. The Ombudsperson sought clarification on whether the 10% quota implies that each public institution at the central level must allocate at least 10% of jobs to members of non-majority communities or if this percentage applies collectively to all central public institutions. In addition, the Ombudsperson requested statistical data on employees in central public institutions (including agencies and independent institutions), categorized by ethnicity.

On September 30, 2024, the Ombudsperson received a response from the MIA stating that Law No. 06/L-114 on Public Officials, even after its repeal and replacement by the new Law on Public Officials, maintains the same provision regarding the 10% quota for non-majority communities' employment in public institutions at the central level. However, the law does not specify that this percentage must be met in each public institution individually but rather as a whole, consistent with

Regulation 15/2023 on Admission Procedure in the Civil Service. Furthermore, the MIA response indicated that public institutions, in order to meet the representation quota of non-majority communities, may open recruitment procedures exclusively for members of underrepresented communities.

According to the statistics provided by the MIA, the available data is from 2022. The report on the number of employees from non-majority communities in the civil service, categorized by ethnicity in state institutions at the central level, indicates that: 92.2% are Albanian, 4.1% Serbian, 0.8% Bosniaks, 0.6% Turkish, 0.6% other, and 2.4% undeclared. The data also reveal that there is no information on other non-majority communities in Kosovo, including Roma, Ashkali, Egyptians, Croats, and Montenegrins. There is no additional explanation or justification for the exclusion of these communities from the statistical data provided by the MIA.

Regarding interethnic incidents, according to Kosovo Police data, 25 cases were reported, 24 of which were due to incitement of discord and intolerance, and one case involved endangering public safety. No cases related to hate speech were reported.

The Rights of LGBTIQ+ Persons

The Ombudsperson, on January 15, 2024, published the *ex-officio* Report No. 146/2021 on “Language in Public Discourse” in relation to the state’s obligations in guaranteeing freedom of expression and preventing hate speech.

The report analyses the language used in public communication in Kosovo during the years 2020-2022, focusing on hate speech in parliamentary sessions, television debates, and comments on social media. The study identifies the causes and objectives of hate speech, including political, ethnic, religious, sexual, and gender affiliation. Moreover, it highlights the impact of media discourse in inciting hatred on social networks and the lack of content moderation.

Some of the report’s findings pertain to the rights of LGBTIQ+ persons, as follows:

Parliamentary sessions (2020-2022): No direct incitement to hatred was found, but “soft hate speech” and covert discriminatory expressions were identified.

Television debates and social networks: Hate speech is more prevalent in online comments, often influenced by debate topics. 86% of such comments come from men and primarily target public figures, sexual orientation, and ethnic affiliation.

Social media platforms: One in 15 comments contains hate speech. The most targeted categories are sexuality, political beliefs, and ethnic affiliation. The most sensitive topics relate to same-sex marriages and interethnic issues.

The report emphasizes the importance of public awareness and inter-institutional cooperation in effectively combating this phenomenon.

On March 1, 2024, the Ombudsperson received a complaint against the Assembly of the Republic of Kosovo regarding discrimination and the violation of the dignity of LGBTIQ+ persons during the plenary session of the Assembly of the Republic of Kosovo, held on March 16, 2022. The complaint was submitted on behalf of the following non-governmental organizations: “Youth Initiative for Human Rights” Kosovo (YIHR), “Center for Equality and Liberty”, “Center for the Development of Social Groups”, “Defenders of Civil Rights”, and “Kosovar Center for Gender Studies”, all represented with authorization by “Youth Initiative for Human Rights” Kosovo.

Considering that the complainants, on the same day they submitted the complaint to the Ombudsperson (March 1, 2024), also filed a lawsuit (C. no. 2993/2024) at the Basic Court of Prishtina, the Ombudsperson, after analysing the circumstances of the case, decided to submit his opinion to this court as *amicus curiae*.

On October 17, 2024, the Ombudsperson submitted an *amicus curiae* to the Basic Court of Prishtina, in which, among other things, he emphasized the importance of freedom of thought and expression in the context of

the case. In this regard, the Ombudsperson stressed that every individual has the right to express their opinion and personal views, which constitute the foundation of every free democratic society. However, the right to freedom of speech, regardless of the manner in which ideas and opinions are expressed and published, should not serve as a justification for discrimination. Therefore, the expression of views and beliefs that violate the dignity of individuals or groups of individuals and harm their reputation, as well as their guaranteed rights, cannot be justified by the right to freedom of expression.

These positions and statements hold particular weight when considering that the members of the Assembly of the Republic of Kosovo are part of an institution that is the highest representative body and the bearer of constitutional and legislative power in the country. This institution is crucial for establishing the democratic system, ensuring the rule of law, overseeing governance processes, and upholding international human rights instruments and standards, which are directly applicable in the Republic of Kosovo.

The Ombudsperson acknowledges that Members of the Assembly have immunity regarding their statements in the Assembly; however, this immunity should be reconsidered when it comes to statements that contain hate speech and discrimination. The Ombudsperson emphasizes that the European Court of Human Rights has dealt with cases involving discriminatory language used by public officials, including politicians and government officials, in which it has consistently upheld convictions and sanctions against public officials whose statements were deemed to constitute hate speech, affirming the importance of promoting tolerance and protecting vulnerable groups from discrimination.

The Ombudsperson has assessed that statements made by representatives of the people, who convey messages and shape public opinion, are of utmost importance. Therefore, their statements should not reinforce prejudices, stereotypes, or other

unacceptable social patterns. For this reason, all state officials and public bodies have a special responsibility and an essential role in promoting tolerance, the right to diversity, and the creation of a society where everyone's rights are respected without discrimination.

The Ombudsperson considers that the statements made by Members of the Assembly on March 16, 2022, during the debate in the plenary session of the Assembly of the Republic of Kosovo, in the review of Article 1138, paragraph 2, of the Draft Civil Code No. 08/L-124, are discriminatory. These statements violate the dignity of LGBTIQ+ individuals by creating a degrading and offensive environment for them. Based on the case law of the European Court of Human Rights (ECtHR), such statements constitute hate speech against the LGBTIQ+ community.

Regarding the rights of LGBTIQ+ individuals, the Ombudsperson, through a public statement on June 10, 2024, expressed disappointment and concern over the vandalism of LGBTIQ+ symbols, specifically the vandalism of the crosswalk on "George Bush" Street, which was painted in rainbow colours in honour of Pride Week. The Ombudsperson strongly condemns the offensive and discriminatory language used in the context of vandalizing LGBTIQ+ symbols.

The Ombudsperson has stated that such actions are unacceptable in a society where constitutional values are based on the principles of freedom, peace, democracy, equality, respect for human rights, the rule of law, and non-discrimination.

On July 22, 2024, the Ombudsperson received a complaint from G.M. against the Kosovo Police (KP) regarding the lack of information on a report he had filed on June 20, 2024, concerning a criminal offense under Article 141 of the Criminal Code of the Republic of Kosovo.

According to the complainant's claims, a video from "Prishtina Pride 2024" was posted on Instagram on the "*meme.shqip.video*" account, featuring the country's Prime

Minister as a participant. Under this video, a user (A.B., using his Instagram account) commented: “*Capture them, execute them, these abominations must not defile us [...]*”. The complainant emphasized that this statement met the elements of the criminal offense defined under Article 141 (Incitement to discord and intolerance) of the Criminal Code of the Republic of Kosovo. The complainant reported the case to the KP via the official police email address but was not informed whether the case had been processed or handled by the KP. Upon receiving the complaint, the Ombudsperson addressed the General Director of the KP in writing to inquire about the actions taken or planned regarding the complainant’s report. The Ombudsperson was informed by the General Director of the KP that upon receiving the Ombudsperson’s letter, the KP had addressed the issue raised by the complainant and had taken immediate action by referring it to the relevant police units for further investigation. Furthermore, the director informed that the Capital Investigations Sector, in consultation with the on-duty prosecutor, had officially recorded the case under No. 2024-AB-SHZ-463 and had taken steps to identify the suspect. The notification stated that the complainant had been contacted via email by the KP and was requested to appear at the “Qendra” Police Station, specifically at the Capital Investigations Sector, to provide any further information he might possess. The Ombudsperson acknowledges the response of the KP and will continue to monitor the work of law enforcement authorities in cases of incitement to discord and intolerance directed against the LGBTIQ+ community.

According to data provided by the Kosovo Police, five cases of criminal acts against the LGBTI community have been reported: one case of inciting division and intolerance, one case of bodily harm, one case of blackmail through social media, and two cases of threats.

On April 30, 2024, the Ombudsperson

approved the Guide on Best Practices – Handling Cases of LGBTIQ+ Individuals¹¹⁰, which has been published on the official website of the Ombudsperson Institution.

Moreover, on March 25, 2024, the Ombudsperson approved the Guide on Handling Hate Crime Cases¹¹¹, which is also available on the official website of the Ombudsperson Institution.

Victimization and Other Forms of Discrimination

- The Ombudsperson has handled a complaint submitted by G.F. against the Kosovo Police Inspectorate (KPI) due to violations of legal procedures in issuing the recommendation for his suspension from work from September 27, 2018, to January 10, 2019, and the negative effects these actions have had on his career development.
- On June 20, 2024, the Ombudsperson published a report with recommendations, concluding that the prolonged criminal investigation procedure by the KPI since 2018 constitutes a violation of the complainant’s right to a fair and impartial trial as well as his right to effective legal remedies, as guaranteed by the Constitution of the Republic of Kosovo. Furthermore, during the investigation of the case, the Ombudsperson observed that the complainant did not claim to have been discriminated against on any of the grounds specified by law. However, the complainant’s report to the KPI regarding suspicions of a criminal offense during the implementation of the supply contract [...] within the Kosovo Police and the initiation of a preliminary investigation against him by the KPI raise suspicions of his victimization and placement in a disadvantaged position, which in this particular case could be considered victimization due to reporting misconduct.
- During the reporting year, the

¹¹⁰ <https://oik-rks.org/2025/02/18/udhezues-per-praktika-te-mira-trajtimi-i-rasteve-te-personave-lgbtq/>

¹¹¹ <https://oik-rks.org/en/2025/02/18/guidelines-for-handling-hate-crime-cases/>

Ombudsperson also handled complaints alleging contract termination or transfer from one position to another due to political affiliation and opinions. In two of these cases, the Ombudsperson submitted amicus curiae opinions to the court where the complainants had filed lawsuits, mainly because the dismissal and transfer decisions appeared to be in contradiction with the principle of legality or were issued by non-competent authorities.

General Practices That Contradict the Principle of Non-Discrimination

Based on the aforementioned findings, the Ombudsperson concludes by summarizing some of the practices that contradict the principle of non-discrimination.

- The lack of data on discrimination cases creates an inaccurate picture of the real situation regarding discrimination, while the failure to appoint officials responsible for protection from discrimination hinders the implementation of the Law on Protection against Discrimination (LPD).
- Discrimination in the treatment of protected categories, such as persons with disabilities, individuals with diverse sexual orientations, or those facing discrimination based on age, ethnicity, or religious belief, remains a significant concern requiring the attention of authorities.
- The Ombudsperson has observed that age-based discrimination is a troubling phenomenon, with the perception of age as a discriminatory factor still being prevalent. This form of multiple discrimination is particularly pronounced among the elderly, who face various limitations, including those related to mental health and social care. Services provided to this age group are often inadequate and fail to offer proper support.
- In the field of employment, discrimination in recruitment processes and the lack of transparency remain persistent concerns. The failure to provide equal opportunities for applicants and the discrimination against specific groups are frequent occurrences, hindering progress and equal opportunities for all.
- Another significant issue is gender inequality in leadership positions, where men overwhelmingly dominate. Women continue to face barriers in reaching decision-making positions. Gender discrimination is also evident in property and inheritance matters, where cultural norms and insufficient information about property rights make it difficult for women to access these rights. Besides, the inadequate representation of women in political party candidate lists has raised concerns. The law stipulates a minimum quota of 30% for each gender, yet in practice, women's representation remains low.
- Domestic violence and gender-based violence continue to persist despite efforts to combat these phenomena.
- The unclear deadlines and general reasoning for decisions on granting victim status to survivors of sexual violence during the war create uncertainty and may further worsen the situation of the victims. Delays in issuing identification cards for victims and the lack of psychosocial support negatively impact their reintegration.
- Ethnic discrimination, particularly in public sector employment, remains a challenge. The insufficient representation of non-majority communities, especially Roma, Ashkali, and Egyptians, continues to be a concern that must be addressed to ensure equal inclusion and opportunities for all citizens.
- Discrimination against LGBTIQ+ persons remains present, especially on social media, where hate speech and negative comments have created a hostile and harmful environment for this community. Institutional discrimination has been observed during parliamentary sessions, negatively affecting the dignity and rights of this group.

Rights of Communities and their Members

The Republic of Kosovo is founded on the values of respecting the rights and freedoms of non-majority communities living in Kosovo, guaranteeing the protection of their political, civil, and other rights in accordance with the Council of Europe's Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, as stipulated in Chapter 3 of the Constitution – Rights of Communities and Their Members. This chapter of the Constitution sets forth specific rights for communities and their members.

Non-majority communities continue to face numerous challenges in exercising their rights, similar to those encountered by all citizens of the Republic of Kosovo, primarily due to the lack of full implementation of laws, particularly the Law on the Use of Languages, the enforcement of the LPD, as well as issues related to education and employment.

During the reporting year, the Ombudsperson received 214 complaints submitted by members of non-majority communities, of which 110 were submitted by members of the Serb community, 23 by members of the Ashkali community, 20 by members of the Bosniak community, 17 by members of the Roma community, 12 by members of the Turkish community, 10 by members of the Egyptian community, 7 by members of the Gorani community, and 15 by members of other communities. The content of the received complaints indicates that the issues faced by members of non-majority communities remain the same as in previous years, which is an indication that authorities are obliged to address these matters with greater consistency, as the Ombudsperson reports on them year after year. The problems faced by non-majority communities cannot only be observed through the submitted complaints, but also by monitoring the entire situation on the ground, through meetings with citizens, civil society organizations, organized roundtables, and other forms of

cooperation aimed at, among other things, identifying issues of interest to be addressed by the Ombudsperson, issues that concern the respect of the rights of non-majority communities.

Return and Security

During the reporting year, according to data received from the Ministry of Communities and Return, 66 persons from non-majority communities returned voluntarily, of which 7 are Ashkali, 4 Bosniaks, 29 Roma, and 26 Serbs. As for the places where they have returned, 48 of them have returned to the municipality of Gjilan, 6 to Peja, and 12 to Prishtina.

From the received complaints, the Ombudsperson observes that the greatest concerns expressed by members of non-majority communities are: non-respect of linguistic rights, the issue of non-recognition of diplomas, problems with obtaining personal documents due to registration issues in civil registers, etc.

The Ombudsperson has consistently emphasized that the boycott of the institutions of the Republic of Kosovo and the abandonment of jobs in the form of a boycott by members of the Serb community living in the northern part of Kosovo has worsened the situation of this community in institutional representation. This situation was further escalated by the boycott of extraordinary local elections in these municipalities and the non-participation in voting for or against the dismissal of the mayors of these municipalities.

According to the report from the Kosovo Police, from January to the end of November 2024, 23 cases of possible inter-ethnic incidents characterized by incitement to division and intolerance, and 1 case of causing a general danger, have been registered. Of these, in 19 cases the affected parties are Albanians, 3 are Serbs, and 1 case involves the Roma community.

The Ministry of Communities and Return (MCR) has continued this year, in accordance with its mandate and competences, to assist and provide support for all returnees and

communities in Kosovo. The Ombudsperson appreciates the work of MCR in increasing the support capacity for the non-majority population, not only regarding assistance to returnees but also in the implementation of numerous projects, which have included civil society organizations from all communities, small private entrepreneurial companies, agricultural farms, and individual farmers, as well as the construction and reconstruction of houses for vulnerable members of non-majority communities in Kosovo.

It is encouraging to see the engagement of responsible authorities in their response regarding the case of a Croatian family in the village of Janjeva, municipality of Lipjan.¹¹² The case concerns a complaint related to the harsh and dangerous living conditions of three elderly women in a 150-year-old house located in the protected cultural and historical area of Janjeva. After receiving the complaint, the Ombudsperson initiated action in cooperation with the OSCE and the Office for Communities of the Municipality of Lipjan, which resulted in a positive decision by the Ministry of Culture to allow MCR to build a house for this three-member family in a part of their yard, so that they would not have to wait for the creation of conditions to renovate the historically and culturally significant building in which they currently live.

As in previous years, the Ombudsperson has received a number of complaints concerning the problems faced by citizens in the northern part of Kosovo regarding civil status¹¹³ regulation (births, marriages, deaths, and marital status). All these problems relate to issues of citizenship, civil registration, and personal documents. The Ombudsperson has highlighted this issue in previous reports, and this year, after a meeting with representatives of the Government and the insistence of the Ombudsperson, the Government has shown readiness to resolve this issue. On November 29, 2024, the Ministry of Internal Affairs issued a Decision¹¹⁴, based on which

citizens will have the opportunity to regulate their civil status. This decision enables all citizens of the Republic of Kosovo who have not registered their civil status in the territory of the Republic of Kosovo from 1999 until the entry into force of this decision to submit requests for registration in the Central Civil Status Register of the Republic of Kosovo. The Ombudsperson believes that citizens will take advantage of this opportunity and will regulate their civil status within the legal system of the Republic of Kosovo, thus facilitating the further process of obtaining identification documents.

Property Rights

Out of a total of 214 complaints received from members of non-majority communities during this year, nearly half refer to delays in court and prosecutor procedures. These complaints primarily concern procedures related to property disputes, property usurpation, re-usurpation of property, and the demolition of illegally constructed buildings on other people's property.

Delays in judicial procedures in property-related cases continue to be complex and problematic, especially considering the prolonged duration in resolving property claims, which are not in accordance with the right to a trial within a reasonable time frame. Other problematic issues that could be considered are usurpations, re-usurpations, and the inability to dispose of private property, which the Ombudsperson has also reported on in previous years.

Education

The Constitution of the Republic of Kosovo guarantees and regulates the right to education in Article 47, as a right that encompasses three main obligations: (i) providing free and compulsory basic education, (ii) creating an inclusive educational system that offers equal opportunities, and (iii) establishing an educational system that meets the basic and

112 A. no. 673/2023

113 Complaints 957/24, 814/24, 1346/24, 1350/24 and others

114 <https://mpb.rks-gov.net/f/57/7939/Pyetjet-me-t%C3%AB-shpeshta,-n%C3%AB-lidhje-me-procedur%C3%ABn-e-zbatimit-t%C3%AB-Vendimit-t%C3%AB-Ministrit--->

specific needs and abilities of each child.¹¹⁵ This right is also defined by the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its protocols, as well as the Convention on the Rights of the Child (CRC).¹¹⁶

In 2024, secondary legislation was issued to regulate the procedures for the selection and appointment of directors and deputy directors, teachers, professional collaborators, assistants, instructors, and secretaries in public educational and training institutions (ETI) of pre-university education¹¹⁷, as well as the Education Director's Guide for implementing the regulation. It is also important to mention the issuance of the Guide for the substitution of teachers with serious health conditions, No. 2-2531, dated 27.08.2024, which regulates the procedures for compensating teachers with serious health conditions.

To define roles, organization, functioning, cooperation, as well as duties and responsibilities for educational and training institutions, Administrative Instruction (GRK) No. 05/2024 on Child Protection Education was issued.¹¹⁸

In terms of protecting these rights, as part of the promotional and human rights protection activities, the Ombudsperson Institution (OI) conducted information campaigns for students and teachers in primary and lower secondary schools. For this purpose, pre-university educational institutions were visited, and the Ombudsperson participated in various meetings.

During 2024, the Ombudsperson reviewed a total of 29 cases, of which 7 complaints were deemed inadmissible, and 22 cases were

opened for investigation. Of those, 10 cases remain open, while 12 have been closed. Of the investigated cases, 5 were initiated *ex-officio*.

Of the complaints received from the complainants, 7 complaints were deemed inadmissible, 5 of which were due to non-exhaustion of legal remedies, 1 because there was no violation or misadministration, and 1 was outside the competence of the Ombudsperson.

Open cases include 6 cases opened based on individual complaints, and 4 cases opened *ex-officio*. The individual complaints include two regarding non-responses to complaints, two regarding student transport claims, one concerning special educational needs, one complaint about inadequate treatment of students at a private school, and one regarding accommodation at the Student Dormitory.

Ex-officio initiated cases address the non-accreditation of study programs¹¹⁹, abandonment of students in the municipality of Gjakova¹²⁰, issues related to the use of sign language and curricula¹²¹, and the responsibilities and obligations of the state concerning physical and psychological violence in schools.¹²²

Upon completion of investigations, 12 complaints were closed, with 5 resolved at the request of the parties, 1 *ex-officio*¹²³, 4 found no violations or misadministration by the institutions, and 2 were closed due to failure on the part of the complainants.

In 2024, regarding the right to education, the Ombudsperson published 3 reports

115 Constitution of the Republic of Kosovo, Article 47

116 Protocol No. 1 of the ECHR, Article 2 and the Convention on the Protection of Children, Article 28

117 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=95292>

118 <https://masht.rks-gov.net/udhezim-administrativ-qrk-nr-05-2024-edukimi-permbrojtjen-e-femijes/>

119 R/1204/2024

120 R/1178/2024

121 R/1128/2024

122 R/661/2024

123 *Ex-officio* R/147/2024

with recommendations¹²⁴ and one letter of recommendation¹²⁵. The Ombudsperson also issued a statement regarding reports of sexual harassment, expressing concerns about sexual harassment allegations at the University of Prishtina.¹²⁶

Regarding the education of children with special educational needs, in 2024, a number of assistants for students with special educational needs were engaged. However, despite this, there are still students who do not receive support from assistants, making it necessary to continue engaging assistants based on students' needs.

Early childhood education continues to be a challenge, with a small number of children attending day-care. Therefore, it is necessary to increase capacity for children's participation in early childhood education.

The educational system for children from the Serbian community continues to operate with the curriculum from the educational system of the Republic of Serbia, without notifying the Ministry of Education, Science, Technology, and Innovation.¹²⁷

Regarding the distribution of textbooks for primary and lower secondary school students, this year, similar to previous years, the process of distribution has been accompanied by issues and delays. It was reported that the Kosovo Assembly, through the Assembly Investigative Commission, has engaged experts regarding the process of subsidizing textbooks.¹²⁸ The Ombudsperson considers it necessary to start the textbook distribution process in a sufficient timeframe to ensure students receive their textbooks without delays.

Despite numerous efforts, the Ministry of Education, Science, Technology, and Innovation has failed again this year to complete the procedures for recruiting education inspectors. The lack of a sufficient number of education inspectors causes delays in evaluating teachers' performance and affects the quality of education.

Based on the recommendations made by the Ombudsperson, it can be concluded that in educational institutions, the adoption of the Higher Education Law and the implementation of existing legal provisions remain a challenge. Although there have been some improvements, inclusive education, especially for vulnerable groups of children with disabilities and children from minority communities, remains a challenge. Moreover, considering the best interests of children, there is still a need for greater support and the provision of transportation for children with special educational needs, as well as ensuring the sufficient number of assistants for these children.

Language Rights

One of the biggest challenges regarding the respect for the rights of non-majority communities in Kosovo is the enforcement of linguistic rights. As in previous reports, unfortunately, it can once again be stated that linguistic rights are not adequately respected, even though, according to the Constitution and the Law on the Use of Languages, Albanian and Serbian are official and equal languages. Furthermore, there is no consistency in the use of other languages spoken by communities that have official status under applicable regulations. Consequently, the existing protection mechanisms are either insufficient or lack the

124 Cases no. 359/2023; 636/2023; 637/2023

125 R. No. 292/2024, <https://oik-rks.org/2024/12/05/lete-rekomandim-r-nr-292-2024/>

126 <https://oik-rks.org/en/2024/04/25/the-ombudspersons-statement-regarding-the-reporting-of-sexual-harassment/>

127 Article 12, paragraph 12.2, of Law No. 03/L-068 on Education in the Municipalities of the Republic of Kosovo stipulates that: "Schools that teach in the Serbian language may apply curricula or textbooks developed by the Ministry of Education of the Republic of Serbia upon notification to the Ministry of Education, Science and Technology of the Republic of Kosovo."

128 <https://www.youtube.com/watch?v=cLwk3uUbgA8>, 8:00 PM News, Klan Kosova, 09.11.2024

necessary support to ensure their efficiency, particularly in holding public authorities fully accountable for implementing and respecting the legal framework governing linguistic rights equally for all citizens.

Furthermore, in addition to the Serbian community, Bosniaks, Roma, and Turks have for years reported violations of their legally guaranteed linguistic rights. The Turkish community has highlighted the inability to take entrance exams for the Kosovo Police and the jurisprudence exam in the Turkish language. The Bosniak and Gorani communities continue to face difficulties in accessing various services, poor translation of texts, limited access to the labour market, and restricted services due to the lack of respect for linguistic rights. The Roma community is still unable to exercise its right to municipal services in the municipality of Gračanica in its own language, despite Romani being an official language in this municipality, primarily due to the absence of a permanent translator for this language. The challenges faced by Serbian citizens in communicating with institutions, the lack of educational materials and information in Serbian, and the availability of translations – when they do exist – being significantly delayed and full of grammatical and lexical errors remain evident.¹²⁹

In 2024, the OI (Ombudsperson Institution) also received a number of complaints regarding linguistic rights. However, the primary mandate for monitoring the implementation of language legislation and handling complaints related to linguistic rights falls under the Office of the Language Commissioner.

The complaints received by the OI concerning the use of the Serbian language as one of the official languages in the Republic of Kosovo and communication with public authorities include the failure to receive court rulings in Serbian, delayed judicial detention orders for several months, rejection of applications for registration in the civil registry, and all

forms of communication (both written and verbal) with the Department for Citizenship and Asylum at the Ministry of Internal Affairs of the Republic of Kosovo. Other reported issues include deportation decisions from the territory of the Republic of Kosovo, communication difficulties with Kosovo Police officers in the north due to language barriers, the lack of a full-time translator at the Detention Center in North Mitrovica, and challenges in communication with civil registry officers and registration offices in both North and South Mitrovica.¹³⁰

Regarding the issue of the quality of legal translations and linguistic inconsistencies, particularly in translations from Albanian to Serbian, the OI stated in 2024 that these issues persist and that the recommendations provided at the end of 2023 are expected to be implemented in 2025. A positive development in this regard is that the Assembly of Kosovo has addressed the translation issue, and the translation of Government sessions into Serbian has begun. In addition, the Office of the Prime Minister of the Republic of Kosovo is in the process of establishing the Office for Language Control and Harmonization. It remains to be seen in the coming period whether the aforementioned office will be established and whether errors and inconsistencies in legal and sub-legal acts, including the Constitution itself, will be corrected and harmonized. This would ensure the implementation of the recommendations given by the OI to the Assembly of the Republic of Kosovo, ultimately aiming to establish legal certainty for all citizens equally.

Regarding the monitoring of the situation concerning the respect of linguistic rights of all citizens of the Republic of Kosovo, the Ombudsperson Institution (OI) started cooperation with the Office of the Language Commissioner several years ago to better coordinate and promote linguistic rights, as well as to work together for the faster resolution of complaints. The cooperation between the

¹²⁹ The information was gathered during meetings with civil society organizations, citizens, and the Chairperson of the Advisory Council for Communities throughout 2024

¹³⁰ Cases 1328/24, 1327/24, 957/24, 526/24, 54/24

Office of the Language Commissioner and OI continued throughout 2024 and a joint project was implemented in coordination with the International Organization for Migration (IOM), which is planned to continue in the first half of 2025. The project concerns monitoring the implementation of the Language Law in certain municipalities and courts in the Republic of Kosovo. In March 2024, OI, together with the Office of the Language Commissioner, completed the first phase of monitoring public institutions, the findings of which were consolidated in the bilingual report “Implementation of the Law on Languages in Municipalities and Courts” (in the municipalities and courts in Prishtina, Graçanica, Gjilan, Peja, Prizren, and South and North Mitrovica).

The overall conclusion of the report is that the current situation in the field of law enforcement cannot be considered satisfactory. The number of translators is insufficient, and there is a lack of qualified individuals to provide translation services, especially in municipalities. In some cases, even when a competition is announced more than once, no candidates meet the legal requirements. Translation services in most municipalities are not contracted with translation companies, as no specific budget has been allocated for translation services in any of the mentioned institutions. Numerous shortcomings were also observed on the websites of institutions, such as outdated pages, incomplete translations, and clearly inaccurate translations into Serbian. The second phase of the project foresees the continuation of joint activities of OI and the Office of the Language Commissioner under the name “Progress and Promotion of Linguistic Rights” with the aim of further monitoring the implementation of the Language Law by public authorities until the end of May 2025. On the occasion of International Human Rights Day, OI organized and held a roundtable with the theme “Linguistic Rights: The Path to Fundamental Human Rights.” The aim of this activity was to highlight the vital importance of linguistic rights in promoting inclusion, diversity, and equality, as well as their impact

on fundamental human rights. OI believes that this event will serve institutions, the media, civil society organizations, and other interested parties to deepen their commitment to the protection of language rights as a fundamental human right.

During 2024, with the support of the OSCE Mission in Kosovo, OI held a series of roundtables in the municipalities of Graçanica, Mamusha, Dragash, Klinë, Rahovec, Shtërpçë, and in the village of Letnicë. The roundtables aimed to raise citizens’ awareness, primarily among members of non-majority communities, regarding human rights, the role and mandate of OI, strengthening cooperation with civil society organizations, informing citizens about the recommendations of the Ombudsperson and their implementation by public authorities, as well as discussing the acceptance and resolution of complaints submitted by citizens to OI.

During the roundtables, OI identified a series of issues that citizens face every day and that were highlighted during these discussions. Issues mentioned earlier in this report were identified, such as: non-respect of linguistic rights in administrative and judicial procedures (delays in translating judgments, as well as communication difficulties with local self-government employees in the north of the Republic of Kosovo after the restructuring of workers in these municipalities at the end of 2022), as well as issues regarding health services; the need for providing courses in Albanian and Serbian for municipal officials and members of the Kosovo Police; lack of engagement and activities by civil society organizations within communities; the necessity of greater engagement and cooperation of community representatives within local self-government with citizens and field visits; lack of support for persons with disabilities belonging to non-majority communities and NGOs that represent and protect the rights of these persons to central and local authorities; infrastructural barriers to the access of persons with disabilities in courts, prosecutors, municipalities, educational institutions, public spaces, etc.; insufficient communication by some

municipal offices for communities with the MCR; inadequate involvement of citizens in decision-making on public interest matters, especially when it comes to members of non-majority communities, who represent the numerical majority in municipalities in the northern part of the country, as well as insufficient representation of the Serbian community in local self-governments – authorities in four municipalities in northern Kosovo; issues related to the environment (inadequate waste management, soil and river pollution); lack of potable water and sewage systems in some villages of Kosovo.

From all that has been said above, a logical conclusion emerges that public authorities must more consistently address the need to equally include members of all communities in all aspects of social and public life, in order to ensure the sustainable inclusion and integration of all citizens equally, without discrimination, as well as the need for more effective protection of the rights of non-majority communities to build trust among members of non-majority communities in institutions.

Roma, Ashkali and Egyptian Communities

The Republic of Kosovo is a multi-ethnic society, consisting of Albanians and other communities, which is governed democratically, with full respect for the rule of law, through its legislative, executive, and judicial institutions.¹³¹

Law No. 03/L-047 on the Protection and Promotion of the Rights of Communities and Their Members in the Republic of Kosovo stipulates that the Republic of Kosovo guarantees full and effective equality for all the people of Kosovo. Kosovo considers its national, ethnic, linguistic, and religious diversity as a source of strength and wealth for the further development of a democratic society based on the rule of law. In the development of the Republic of Kosovo, the active contribution of all individuals belonging

to communities is encouraged and valued.¹³²

However, as in previous years, the Roma, Ashkali, and Egyptian communities continue to face the most difficult economic and social conditions in Kosovo.

During 2024, the Ombudsperson Institution received 26 complaints from the Ashkali community, 19 complaints from the Roma community, and 13 complaints from the Egyptian community.

The cases investigated by the Ombudsperson Institution, submitted by the Roma, Ashkali, and Egyptian communities, mostly relate to allegations of violations of rights concerning the lack of necessary living and housing conditions, property usurpation, civil registration issues, and delays in judicial procedures.

Education

The situation in education for the Roma, Ashkali, and Egyptian communities remains the same as in previous years. One of the major issues is the abandonment of compulsory education by children from these communities. The Ministry of Education, Science, Technology, and Innovation has continued to allocate scholarships for high school students from the Roma, Ashkali, and Egyptian communities.

The Ombudsperson, based on information received from the Technical Group, has identified that 30 Ashkali children, students of the “Selman Riza” primary school in Fushë Kosovë, are not attending classes due to the interruption of alternative education. Regarding this issue, on May 23, 2024, the Ombudsperson published the Report with Recommendations No. 637/2023 against the Municipality of Fushë Kosovë and found that, in this particular case, there have been violations of fundamental human rights and children’s rights to education. This conclusion was reached because the relevant municipal authorities failed to fulfill their constitutional and legal obligations.

¹³¹ Constitution of the Republic of Kosovo, Article 3, paragraph 1

¹³² Law No. 03/L-047 on the Protection and Promotion of the Rights of Communities and Their Members in the Republic of Kosovo, Article 1, Paragraph 1

Therefore, the Ombudsperson recommended that the Municipality of Fushë Kosovë take all necessary measures to enable these children to continue their education and thereby guarantee their right to education.

Employment

The socio-economic situation of the Roma, Ashkali, and Egyptian communities and their access to employment, both in the public and private sectors, remains a challenge. The majority of individuals from these three communities who are willing to work are either unemployed or engaged in the informal economic sector.

According to the situation on the ground, a significant portion of children from the Roma, Ashkali, and Egyptian communities are forced to beg on the streets of Kosovo's cities, and some children are also involved in collecting recyclable materials.

The Ombudsperson is in the final stages of an investigation in the case of Z.G. against the Central Election Commission regarding recruitment procedures, with claims of discrimination based on ethnic origin. During the handling of this case, the Ombudsperson raised the issue of employment of non-majority communities in public administration institutions. According to statistics sent by the Ministry of Internal Affairs (MIA), from 2022, the Ombudsperson notes that there is no statistical data regarding the Roma, Ashkali, Egyptian, Croatian, and Montenegrin communities. In regard to this information, the Ministry has not provided any clarifications that would explain the reason for the absence of data on employees from these communities. Upon completion of the investigation, the Ombudsperson will issue a position on this matter.

Of the 58 complaints submitted to the Ombudsperson Institution by the Roma, Ashkali, and Egyptian communities in 2024, only 3 complaints relate to claims concerning employment.

Housing

One of the ongoing issues faced by the Roma, Ashkali, and Egyptian communities

is housing, with the majority of them living in difficult conditions. The Roma, Ashkali, and Egyptian communities reside in homes lacking infrastructure, with no access to drinking water and electricity. The continuous issue is also the legalization of their houses or apartments. Based on the activities of the Ombudsperson's Institution in the field, a significant portion of families from the Roma, Ashkali, and Egyptian communities live on properties where they are not the legal owners. Many international organizations and non-governmental organizations, in cooperation with public institutions, have informed them about the legal procedures for regulating the necessary documentation for properties, but very few families from these communities have shown interest. In 2024, the Ministry of Local Government Administration continued to build houses for non-majority communities, including the Roma, Ashkali, and Egyptian communities. However, some applicants from the Roma, Ashkali, and Egyptian communities have not met some of the main criteria, such as the ownership certificate in the applicant's name.

In December 2024, the Ombudsperson's Institution received information from a representative of a neighbourhood inhabited by the Roma, Ashkali, and Egyptian communities in Fushë Kosovë regarding the lack of suitable living conditions, particularly the absence of electricity, and it is expected that actions will be taken. Along with addressing the raised issues, other aspects related to the housing of these communities in this municipality will also be evaluated.

Health Issues

The lack of access to healthcare is one of the biggest challenges faced by the Roma, Ashkali, and Egyptian communities in Kosovo, considering that for some, access to healthcare is limited as many of these communities live in remote rural areas, isolated places where healthcare institutions are not easily accessible. The Ombudsperson's Institution has received information from the Roma, Ashkali, and Egyptian communities that difficult economic conditions, as well as the lack of awareness

about healthcare services, often leave them without access to healthcare.

The Strategy for the Advancement of the Rights of the Roma and Ashkali Communities in the Republic of Kosovo 2022-2026, and the Action Plan 2022-2024, both approved by the Office of the Prime Minister of the Republic of Kosovo, address objectives such as education, employment, and social welfare, housing, and discrimination, with a health component as well. This component defines three specific objectives: improving access to quality healthcare services for members of the Roma and Ashkali communities; improving the health of members of the Roma and Ashkali communities through health awareness and promotion; and improving the quality of healthcare services by raising awareness among public healthcare staff for equal treatment and the elimination of discrimination against Roma and Ashkali communities. However, based on the situation on the ground, there have been no concrete achievements regarding the fulfilment of these specific objectives.

Early Marriages

Although there is no precise data regarding the number of early marriages in the Roma, Ashkali, and Egyptian communities, this issue continues to be concerning. Factors influencing the occurrence of early marriages include gender inequality, school dropout, poverty, lack of information, cultural traditions, and poor communication between parents and their adolescent children.

The 2024 European Commission report on Kosovo also mentions early marriages among the Roma, Ashkali, and Egyptian communities, stating that “*Early marriage mostly affects girls from these communities.*”¹³³

At the end of 2023, the Government established an inter-institutional working group to prevent and report early marriages in Roma, Ashkali, and Egyptian communities. On June 7, 2024, the Office for Community

Affairs within the Office of the Prime Minister held a meeting where the Action Plan for Preventing Early Marriages in Roma, Ashkali, and Egyptian Communities was presented, aimed at solving this issue. According to research and recent data, around 200 cases occur annually. In the upcoming period, the working group will visit each municipality with a significant Roma, Ashkali, and Egyptian population, where, together with the relevant municipal officials, they will discuss the presence of early marriages and ways to prevent them.¹³⁴

Roma Language

In accordance with Article 2(3) of Law No. 02/L-37 on the Use of Languages, in municipalities inhabited by a community whose mother tongue is not an official language and constitutes at least five percent of the general population, the community's language will have the status of an official language in the municipality and will be used equally with the official languages. Furthermore, the law specifies that in municipalities where persons belonging to communities whose language is an official language have the right to submit all requests and documents in written or oral form and receive responses in their language from the institutions and municipal officials, should they request this.

While the Ashkali and Egyptian communities do not perceive language as a barrier to accessing public institutions, as their mother tongue is Albanian, for the Roma community, it remains a challenge. This is because the Romani language is not an official language, and only two municipalities recognize it as an official language – Graçanica and Prizren. According to information from the Ombudsperson, the use of the Romani language as an official language is not at an acceptable level, and translation services need to be engaged regularly. Roma citizens face difficulties in obtaining information in their native language.

¹³³ European Commission Report on Kosovo, 2024, p. 36

¹³⁴ <https://zck-kpz-platform.rks-gov.net/en/presentation-of-the-action-plan-for-the-prevention-of-early-marriages-in-roma-ashkali-and-egyptian-communities/>

Children's Rights

Children's rights are an integral part of human rights. Children have the same general rights as adults but also specific rights tailored to their particular needs as children. Article 50 of the Constitution of the Republic of Kosovo provides that children enjoy the right to protection and care necessary for their well-being. The Constitution also imposes legal obligations on the state to respect, protect, and fulfil these rights through the direct implementation of the Convention on the Rights of the Child (CRC).¹³⁵

As for the legislative framework, this year the Law on Youth and 8 important subordinate acts in the fields of education, disability, and protection of children from violence were adopted. Seven of these acts stem from the Law on Child Protection (LCP). In 2020, the Ombudsperson initiated *ex-officio* investigations (381/2020) related to the evaluation of the LCP. The Ombudsperson emphasized that although the LCP authorized competent institutions to issue 18 sub-legal acts¹³⁶, within a year of its entry into force in 2020, this had not happened. Finally, after almost 5 years, these subordinate acts were adopted, but the subordinate acts for the organization and scope of Day Care Centers and Centers for Family and Social Services under the new Law on Social and Family Services have not yet been adopted. The lack of adoption of these acts hinders the full implementation of the law.

The analysis of the situation of children in Kosovo this year continues to show that children still face difficulties in fully enjoying their rights. These difficulties are evident in nearly all areas of their lives, particularly in realizing their right to education, judicial and administrative procedures, and social and healthcare protection. During 2024, the Ombudsperson received 76 complaints related to children's rights, mostly submitted

by parents of children, while 13 cases were opened for investigation *ex-officio*. In terms of the gender of the complainants, 32 complaints were filed by men and 31 by women. Furthermore, the institutions against which complaints were received include: 35 against municipalities, 13 against courts, primarily for delaying judicial procedures and requests for monitoring judicial processes, 19 against ministries, 6 against police, 2 against prosecutors, and 13 complaints of other types.

Of this number, 13 complaints were declared inadmissible, as the issues involved were outside the Ombudsperson's jurisdiction, did not involve human rights violations, or the complainants had other legal remedies available. From the complaints received from citizens, 50 complaints have been opened for investigation and are detailed throughout this report. During this year, the Ombudsperson issued 8 recommendations to relevant public authorities and sent 58 reminder letters to these authorities regarding non-responses and non-implementation of recommendations.

Complaints submitted by individuals	63
Cases opened for investigation based on complaints submitted by complainants	50
Inadmissible complaints	13
Cases opened for investigation <i>ex-officio</i>	13
Total	76

Children's Right to Education

The cases related to the right to education that have been investigated by the Ombudsperson, including those initiated *ex-officio*, have addressed: school abandonment¹³⁷, school infrastructure¹³⁸, representation in sports competitions¹³⁹, suspension from school¹⁴⁰, violence

135 Constitution of the Republic of Kosovo, Article 22

136 <https://oik-rks.org/en/reports/ex-officio-reports/> [last accessed on 6.1.2025]

137 Cases 147/2024, 114/2024 and 1178/2024

138 Case 292/2024

139 Case 96/2024

140 Case 25/2024

in schools¹⁴¹, school administration¹⁴², subsidization of school textbooks¹⁴³, lack of school transport¹⁴⁴, diploma nostrification¹⁴⁵, denial of the right to access early childhood education¹⁴⁶ and the impact of the weight of schoolbags on elementary school children.¹⁴⁷

Regarding children's rights to education, the Ombudsperson's Institution has published three reports: *Report with ex-officio recommendations No. 636/2023 Inclusion of applicable human rights standards in the high school textbooks in Kosovo*, *Report No. 637/2023 on the denial of the right to education*, and *Report A. No. 359/2023 on unequal treatment of children with disabilities in preschool education*.

Case of the Inclusion of Applicable Human Rights Standards in the High School Textbooks in Kosovo

In the first report, the Ombudsperson's Institution investigated and analysed the extent to which human rights standards are included in the high school textbooks in the Kosovo education system. The report was prepared by analysing the content of 19 textbooks for grades 10, 11, and 12, from all directions of secondary schools, both for social-linguistic gymnasiums and natural science gymnasiums. The Ombudsperson concluded that the overall level of high school textbooks in relation to human rights is satisfactory, while also identifying areas for improvement and supplementation. Consequently, the Ombudsperson recommended the Ministry of Education, Science, and Technology (MEST) to 1) unify the key terminology in the dictionaries of sociology, psychology, and civic education in relation to human rights, and 2) eliminate all terms and paragraphs with inappropriate content that are in conflict with the principles and spirit of human rights.

Case Related to the Denial of the Right to Education

The Ombudsperson initiated an investigation into the interruption of alternative education for students from the Roma and Ashkali communities in the municipality of Fushë Kosovë. This education was interrupted without prior notice, official decision, or announcement, and the municipality justified the interruption due to a lack of financial resources and a warning from the auditor. The Ombudsperson found that in this particular case, there was a violation of the children's rights, as the relevant municipal authorities had not fulfilled their constitutional and legal obligations, nor the applicable international standards in Kosovo for ensuring the right to education.

Case of Equal Access for Children with Disabilities in Preschool Education and Creating Equal Opportunities for Them in Preschool Institutions

Regarding the inclusion of children with disabilities in early childhood education, the Ombudsperson published *Report A. No. 359/2023, urging the Municipality of Fushë Kosovë to ensure equal access for children with disabilities in preschool education and create equal opportunities for them in preschool institutions*. Given the importance of early childhood education in shaping the child's personality, the Ombudsperson emphasized the necessity for institutions to create spaces and capacities so that children, without discrimination, have easy and effective access to realize this right. Further elaboration on this report will be discussed in the following section.

Cases Under Investigation

The Ombudsperson initiated *ex-officio* investigations following a report received

141 Cases 661/2024 and 310/2024

142 Cases 924/2024, 888/2024, 590/2024, 288/2024 and 1272/2024

143 Cases 851/2024 and 189/2024

144 Cases 1234/2024, 1052/2024, 1103/2024 and 1308/2024

145 Cases 927/2024

146 Cases 1036/2024 and 303/2024

147 Case 1332/2024

from the Education Inspectorate regarding the case of a student at a primary school in Prishtina at risk of school abandonment. This case involved the treatment of a student who, due to the parents' divorce, was at risk of dropping out of school. The Education Inspectorate recommended that institutions, such as the primary school, the Municipal Directorate of Education (DKE) in Prishtina, CSW, and MESTI, take actions in the best interest of the child to improve the student's educational continuity. During the investigation, the child was transferred to another school where the risk of abandonment was mitigated, and the relevant institutions had implemented the recommendations.

Similarly, an *ex-officio* case was opened against the municipality of Gjakova after data from a non-governmental organization revealed that around 169 children in a neighbourhood aged 9-18 had dropped out of school. School abandonment directly affects the future of children by limiting their opportunities for education and personal, professional, and social development. It also contributes to increased social and economic inequalities, hindering the full integration of individuals into society.

In general, poor physical infrastructure in schools, such as the lack of safe and well-equipped environments, negatively impacts the well-being of students and their learning outcomes. In March, the Ombudsperson, *ex-officio*, launched an investigation concerning safety in a primary school building in a village in the municipality of Gjilan. According to information, parts of the ceiling in one of the classrooms had fallen, endangering the lives and health of both students and school staff. In relation to this, the Ombudsperson's representative spoke with the school principal, who informed them that the ceiling had been repaired in the meantime, but also expressed

concerns about another part of the school corridor being dangerous. The director of the Municipal Education Directorate confirmed that a new school is expected to be built, but this may take time. The Ombudsperson also spoke with the Deputy Mayor of Gjilan regarding the school building issue and sent a *Recommendation Letter (Case No. 292/2024)* to the municipality, requesting that they take all necessary measures to ensure a healthy, safe, and suitable school environment for all children.

Security Situation in Schools and Protection against Violence

Regarding security in schools and protection against violence, the Ombudsperson Institution conducted investigations for five cases, of which one was initiated following the parents' complaint and four were initiated *ex-officio*.

The cases were related to intimidation in the presence of the child¹⁴⁸, sexual harassment of a female student by the professor¹⁴⁹, reporting in the case of a child victim of sexual violence¹⁵⁰, sexual and psychological violence in schools¹⁵¹ and physical assault against two underage girls¹⁵².

In the case initiated by the complainant, the complaint was filed against the CSW for not responding. The complainant was threatened by her ex-husband in the presence of their daughter in the premises of the CSW. The complainant claimed that she asked for the CSW director and the police for help on the day of the incident as a result of the threat. After being interviewed by the police, the ex-husband was released by regular procedure at the order of the Prosecutor's Office. The complainant also claimed that she filed a request at the CSW for a report on the event, however she did not receive a response. Therefore, the Ombudsperson Institution addressed the CSW for their failure to respond to the request of the complainant by reminding

148 Case 762/2024

149 Case 310/2024

150 Case 270/2024

151 Case 661/2024

152 Case 1206/2024

them of the seriousness of the situation. The Ombudsperson Institution reiterates the importance of the implementation of Article 31 of the Istanbul Convention, which stipulates that the state shall undertake the necessary measures to ensure that the exercise of any visitation or other custody rights does not jeopardize the rights and safety of the victim or children. Further, Article 46 (d) of the Convention has provided for the aggravating circumstances when the offence is committed against or in the presence of a child, stressing the vulnerability of children when exposed to violence.

Based on the information from the “Epoka e Re” portal in the article titled: “*16 year old girl accuses professor of sexual harassment, prosecutor’s office seeks evidence*” of March 12, 2024, the Ombudsperson Institution initiated *ex-officio* investigations. According to the media, after the student’s reporting, the school Principal informed the police and prohibited the professor from teaching in the girl’s classroom. For the 16-year-old, this is not the first time she is harassed by the same professor. The OI contacted the Municipality of Gjilan. After the investigations, the Municipality of Gjilan informed about the actions undertaken about the case such as the establishment of the disciplinary commission and the suspension of the teacher.

The Ombudsperson initiated an *ex-officio* case for the statement made by the CSW officer in of the municipality of Malisheva, referring to the writing in the “Insajderi” portal titled “*13-year-old girl talks to one of her perpetrators on TikTok*”. The Ombudsperson learned that the CSW representative made a public statement on a TV programme in “Klan Kosova”, thus violating the rights of the child, although he should have been aware that this was a 13-year-old child and a victim of sexual violence. In this case, the Ombudsperson requested information from the Mayor of Malisheva, on whether the relevant municipal authorities had assessed the statements made by the CSW officer, whether those statements were in line with the rights of the child, respectively the right to

privacy and the child’s best interest. Further, the Ombudsperson required to know whether the Municipality of Malisheva had a code of ethics, or any policy that regulates providing information or making public statements by officials of Malisheva, in particular when the victims are children. The Municipality claimed they had undertaken the relevant measures against the official and were in the process of drafting the code of ethics.

The Ombudsperson initiated *ex-officio* investigations in relation to the state’s responsibility and obligations regarding physical and psychological violence in schools and is in the process of drafting a comprehensive report¹⁵³. The report aims to analyze the prevalence of violence in schools, assess the effectiveness of preventive measures, and recommend the responsible institutions to be proactive in providing violence-free environments for students. The data collected so far indicate the presence of all forms of violence, such as psychological, physical, and sexual, perpetrated by peers and teachers in schools. The data show that students and teachers have in some cases reported being victims of violence in schools by peers and staff, indicating a lack of physical safety in these environments. Teachers also face difficulties in managing disciplinary problems and express the need for training on alternative methods of discipline. This situation highlights the urgency of interventions to create a safe environment for all. Overall, the Ombudsperson has found that the current system of reporting violence in schools is inefficient, which is significantly undermining legal responsibility and accountability regarding violence in these institutions. The lack of effective reporting can mean that many cases of violence are not addressed at all or are not handled properly by school authorities.

Sexual violence constitutes a serious violation of children’s rights and causes physical, emotional and psychological harm to victims. The Constitution of the Republic of Kosovo, the CRC, and the Istanbul

153 Case 661/2024

Convention provide for measures to protect children from abuse and exploitation. The legislative framework also provides for proactive measures to prevent, investigate and punish these crimes to ensure the protection and well-being of children. These acts violate the rights of children to security, dignity and autonomy of their bodies.

According to the *ex-officio* recommendation report No. 567/2019 about the positive obligations of the state to protect the right to life in the case of K.V.¹⁵⁴, *Ex-officio* Recommendation Report No. 468/2022 about the protection of children against violence¹⁵⁵, information from the Police and Kosovo Prosecutorial Council, as well as media reports, the number of sexual violence cases and institutional actions in this regard are quite concerning. In this context, on June 25, 2024, the OI organized a roundtable discussion with the aim of gathering all institutional stakeholders to discuss and provide recommendations for the protection of children from sexual violence with a focus on sexual harassment, rape, sexual assault and child abuse in pornography. The roundtable also aimed to improve the institutional response in the prevention and protection of children. The event was attended by representatives of the Police, the Prosecutorial Council, the Victims' Protection Office, Social Work Centers, shelters and non-governmental organizations that focus on the protection of children's rights and addressing sexual violence. Participants shared experiences, challenges and expressed their commitment to improving inter-institutional cooperation

in the prevention and protection of children from sexual exploitation and abuse.

Children's Rights in Court and Administrative proceedings

This year the Ombudsperson received 14 complaints against courts and the administration which were mainly related to the lack of contact with children¹⁵⁶, decision on the custody of children¹⁵⁷ and appointment of alimony¹⁵⁸, child's civil registration¹⁵⁹, accelerating the procedures¹⁶⁰, judge's work¹⁶¹, decision ordering house arrest order¹⁶², dragging child adoption procedures¹⁶³ and dragging court proceedings¹⁶⁴.

At the request of the parties, the Ombudsperson continued monitoring court hearings about child custody decision and appointment of alimony¹⁶⁵. In these cases, the Ombudsperson sent letters to the relevant courts to inform them about the actions taken to respect the right to a fair and impartial trial when there have been allegations of delays, as well as the right to legal remedies.

This year, the Ombudsperson also received complaints about the difficulties that parents have in establishing contact with their children. In one of the cases, the complainant filed a complaint against the Police and the CSW due to the failure to open a case filed against her former partner who had taken the children without her consent. Consequently, after she had not been able to have contact with her children, she requested the CSW to enable her to have contact based on its mandate and competencies. After the

154 <https://oik-rks.org/en/2019/12/09/report-with-recommendations-ex-officio-no-5672019-related-to-the-positive-state-obligations-guaranteed-by-the-constitution-of-the-republic-of-kosovo-and-article-2-of-the-european-convention-for-the/>

155 <https://oik-rks.org/en/2023/04/03/ombudspersons-report-ex-officio-no-4682022-positive-obligations-of-the-state-to-protect-a-child-from-violence/>

156 Cases 33/2024, 922/2024 and 560/2024

157 Case 941/2024

158 Case 144/2024

159 Case 218/2024

160 Case 192/2024

161 Case 257/2024

162 Case 1379/2024

163 Case 1091/2024

164 Cases 104/2024, 110/2024, 228/2024 and 1329/2024

165 Case 560/2024

Ombudsperson raised the concern, the CSW helped establish contact with the children. The Ombudsperson referred to the president of the court regarding this case, which informed that a court session had been scheduled in relation to this case and that the parties had been summoned, thus enabling the party to have a fair and expeditious trial.

Similarly,¹⁶⁶ the complainant claimed that despite the court Ruling which entrusted the child care and education to the mother, the decision was not implemented because the father took the children at his last visit and did not bring them back. The complainant also filed a request for monitoring court hearings in her case at the Basic Court of Prishtina, which the Ombudsperson continues to monitor.

In a different case, the mother filed a complaint against the Municipality of Vitia for not registering the child born in a city in a neighbouring country. The complainant claimed that she had not been able to register her child despite being a citizen of Kosovo, with residence in this municipality. As a result of the failure to register, the child had no name and had never been vaccinated. Birth registration and, consequently, the acquisition of citizenship and the provision of personal documents from the civil registry is a fundamental right protected by international and domestic human rights law. This right serves as a prerequisite for the possibility of accessing and enjoying other rights as a citizen of a given country, such as political and economic-social rights. More specifically, the CRC has provided for the obligation of the state to realize the right to child registration, the right to have a name and the right to acquire a nationality.¹⁶⁷ Consequently, the Ombudsperson spoke with the Civil Registration Office in the Municipality of Viti, which informed about

the procedures and guided the complainant through this process. After following the procedures, she managed to register the child and receive his birth certificate.

Children with disabilities

Children with disabilities still experience serious difficulties and face obstacles to the full enjoyment of their rights as defined by law. Girls and boys with disabilities constitute one of the most vulnerable groups of children, being more vulnerable to social exclusion, discrimination, lack of information and financial resources, transportation and physical access to educational and health care facilities.

During this reporting period, regarding the rights of children with disabilities, the Ombudsperson conducted investigations into 11 cases, 10 of which were initiated following complaints from parents and 1 *ex-officio*. These complaints were related to the lack of school-home transportation¹⁶⁸, denial of the right to access to early childhood education¹⁶⁹, ensuring a sign interpreter¹⁷⁰, amendment of the draft law on Evaluation, Status Recognition, Benefits and Services for People with Disabilities¹⁷¹, removal of support assistant¹⁷², denial of child allowances¹⁷³, (non) allocation of funds for the NGO working with children with disabilities¹⁷⁴ and working hours for parents of children with disabilities¹⁷⁵.

The Ombudsperson launched an *ex-officio* investigation against the Municipality of Prizren regarding the decision of a preschool institution that prohibited children with special needs and children wearing diapers from attending classes at this institution. Furthermore, the decision did not provide any reasoning, the institution's stamp or the

¹⁶⁶ Case 560/2024

¹⁶⁷ CRC, Article 7

¹⁶⁸ Cases 1234/2024, 1103/2024 and 1308/2024

¹⁶⁹ Cases 1036/2024 and 303/2024

¹⁷⁰ Case 45/2024

¹⁷¹ Case 989/2024

¹⁷² Case 194/2024

¹⁷³ Case 1374/2024

¹⁷⁴ Case 592/2024

¹⁷⁵ Case 780/2024

protocol number. This decision is exclusive and discriminatory towards children with disabilities. Article 3 of the Law on Early Childhood Education (LECE) stipulates that early childhood education, i.e. from the age of 6 months to 5 years, is guided by the principles of equality, non-discrimination and inclusion. Furthermore, Articles 37 and 46 (1, 3, 5) of the LCP stipulate that a child with disabilities is not only protected from discrimination but also enjoys the right to benefit from educational services, as well as any other services, as necessary. Non-discrimination and access to education are also stipulated in Articles 2, 3 and 23 of the CRC and in Article 47 of the Constitution. Referring to this legal framework, the Ombudsperson has asked the Mayor of Prizren to provide information regarding this case and the actions taken by the municipality, as such a decision denies the rights of children with disabilities to education, care and development in early childhood.

Regarding inclusive early childhood education, the Ombudsperson has published Report A. No. 359/2023, drawing the attention of the Municipality of Fushë Kosova to the obligation to guarantee equal access to preschool education for children with disabilities and to create equal opportunities for them in preschool institutions. This case was initiated based on a complaint from the mother of a child, whose child was removed from kindergarten on the grounds that other children would be left behind because of him. The complainant has repeatedly tried to enroll her child in both private and public kindergartens in this municipality, but none of them have responded. The complainant has also addressed the MED several times, but has never received a response.

Considering the fact that early childhood care is the first step of the lifelong learning process and is of great importance in the development of the child's personality, the Ombudsperson considers it necessary for institutions to create spaces and capacities so that children, without discrimination,

have easy and effective access to the realization of this right. Numerous studies support the facts that this education helps children develop the potential of their best abilities and contributes to their well-being. The Ombudsperson has also noted the low inclusion of children with disabilities in the education system in Kosovo in the *Ex-Officio Report No. 331/2022 on the approximation of the provisions of the general pre-university education system in Kosovo with the rights of children in education*.¹⁷⁶ Therefore, based on the Constitution of Kosovo, the CRC, the LMP and the LEFH, the Ombudsperson has assessed that access to preschool institutions for all children with disabilities, without discrimination, is in their best interest. Consequently, the OI has recommended the municipality of Fushë Kosova to take action to increase the infrastructure capacities of preschool institutions in its territory.

Meanwhile, two other cases concerned the lack of school transportation for children with disabilities against the municipality of Peja, which is an obligation defined in Articles 13, 15 and 40 (4) of the Law on Pre-University Education (LPUE), which oblige municipalities to provide children with disabilities with access to free, safe and efficient transportation for primary, lower secondary and higher secondary education. For these and other similar cases, the Ombudsperson will issue a special report.

In the case of the complaint filed by a mother of a disabled child residing in Gillogovc, who complained because the employer had informed her that she would be transferred from her workplace to field work in rural areas, and that this transfer from this department would make it impossible for her to continue working because she has to care for her disabled child, more precisely to feed the child with severe disabilities, the Ombudsperson reminded the responsible authorities of their obligation under Article 17 of the Labour Law. According to this legal provision, an employed parent with a child with severe developmental disabilities cannot

¹⁷⁶ <https://oik-rks.org/en/2022/11/10/report-of-the-ombudsperson-ex-officio-no-3312022-with-regard-to-harmonization-of-the-provisions-of-general-pre-university-education-system-of-kosovo-with-the-rights-of-children-in-education/>

be placed outside their place of residence without their consent. Furthermore, the Constitution of the Republic of Kosovo and the Law on the Protection of Children and Families stipulate that all actions of institutions should have the best interest of the child as a predominant consideration. In this case, we are dealing with the child's right to survival and development, which is denied if the child cannot be fed. Furthermore, the CRC and Article 35 (2) of the LCP require institutions to take all necessary measures to ensure that parents or guardians who are unable to perform their responsibilities receive appropriate assistance to fulfill their responsibilities and provide the necessary infrastructure and services in this regard. Therefore, based on the legislation in force, the OI visited the employer and after consultations the decision was changed and the complainant continued to work within her place of residence.

Health and social protection of children

In terms of social and health protection, this year 5 cases were filed by parents and 2 were opened *ex-officio*. Two cases were related to negligence and (in)appropriate treatment by medical personnel¹⁷⁷, two cases of providing housing by the municipality¹⁷⁸, on case on the increased price of services for children with autism¹⁷⁹ and cases opened *ex-officio* for the return of funds from hospitals outside Kosovo¹⁸⁰ and children's mental health¹⁸¹.

In both cases regarding housing, the complaints were directed against the Municipality of Prishtina. In the first case, the parent had requested a change of residence because the child was a victim of violence and had been promised a flat by the institutions for the safety of his child. The investigation revealed that the municipality had secured other accommodation. Furthermore,

the CSW has announced that they are monitoring the child's case, and an action plan is being implemented regarding the provision of necessary services to the child and the family, aiming at the reintegration of the child and monitoring their situation and ongoing needs.

In the second case, the complainant, a single mother of four children, asked the municipality for support because she was living in a rented house. Investigations are ongoing in this case. The Ombudsperson stresses the obligations that local government authorities have in providing the required housing for vulnerable categories.

In terms of cases initiated *ex-officio*, the Ombudsperson launched investigations about the passing of a four-year child from Gjakova based on information received from the media, on grounds that the child had not received the adequate medical treatment. The Ombudsperson visited the family, the General Hospital of Gjakova, and contacted all the institutions involved from the Health and Social Welfare Directorate (HSWD), the Kosovo University Hospital and Clinical Service (KULCS), the Kosovo Police, the Health Inspectorate and the Kosovo Medical Chamber. After reviewing the documentation and investigations, the Ombudsperson found that the relevant institutions had undertaken all appropriate actions as stipulated by the legislation in force for the treatment of the child and the investigation of the case. In the other case regarding the complaint of inadequate medical treatment, the Ombudsperson found that all actions of the medical staff had been professional and in accordance with the law¹⁸².

The Ombudsperson has launched *ex-officio* investigations regarding the challenges faced by relevant state institutions and mechanisms in relation to the mental health of children¹⁸³. In this regard, the Ombudsperson is

177 Cases 133/2024 and 311/2024

178 Cases 464/2024 and 1085/2024

179 Case 729/2024

180 Case 967/2024

181 Case 662/2024

182 Case 311/2024

183 Case 662/2024

producing a report that provides an overview of the current state of children’s mental health, the problems, consequences, impact and services provided for the treatment of children. The Ombudsperson has noted that there is a lack of specific legal provisions on early intervention and preventive care for children’s mental health. Furthermore, schools and primary health care institutions lack the necessary training and preparation to identify early signs of mental distress, which leads to delays in psychological interventions for children. Similarly, at the secondary level there are insufficient mental health services for children, with these services provided only in regional hospitals, namely in the relevant psychiatry departments. Furthermore, the number of professionals engaged in Child and Adolescent Psychiatry cannot meet the demands of patients, making it difficult to divide responsibilities according to professional training. The high demand for psychological assessments from patients and CSWs, as well as the low number of professionals in relation to demand, makes it impossible to provide psychotherapy services by clinical psychology specialists.

The Right to Education

The Constitution of the Republic of Kosovo guarantees and regulates the right to education in Article 47, as a right that includes three main obligations: (i) the provision of compulsory and free basic education, (ii) the creation of an inclusive education system that provides equal opportunities, and (iii) the creation of an education system that meets the basic and specific needs and abilities of every child¹⁸⁴. This right is also defined by the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols (ECHR), as well as the Convention on the Protection of the Child (CRC).¹⁸⁵

During 2024, sub-legal acts have been issued regulating the procedures for the selection and appointment of principals and deputy

principals, teachers, professional associates, assistants, instructors and secretaries in public educational and training institutions (PETI) of pre-university education¹⁸⁶, as well as the Guide for Municipal Education Directorates for the implementation of the regulation. It is also important to mention that the Guide for the replacement of teachers with serious health conditions, No. 2-2531 was issued, dated 27.08.2024, which defines the procedures for their compensation.

In order to define the roles, organization, functioning, cooperation, as well as the duties and responsibilities of educational and training institutions, Administrative Instruction (GRK) No. 05/2024 Education on Child Protection has been issued.¹⁸⁷

In order to protect these rights, within the framework of promotional activities and the protection of human rights, during 2024 the Ombudsperson conducted information campaigns for students and teachers of primary and lower secondary schools, for this purpose, pre-university educational institutions were visited, and the Ombudsperson also participated in various meetings.

During 2024, the Ombudsperson reviewed a total of 29 cases, presented according to the table below:

Number of complaints filed on the right to education	29
The number of complaints regarded as admissible for investigation	22
Number of inadmissible complaints	7
Number of cases opened at self-initiative	5

184 Constitution of the Republic of Kosovo, Article 47.

185 Protocol No. 1 of ECHR, Article 2 and Convention on Protection of the Child, Article 28.

186 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=95292>

187 <https://masht.rks-gov.net/udhezim-administrativ-grk-nr-05-2024-edukimi-permbrojtjen-e-femijes/>

Inadmissible complaints, according to the Articles of the Law on Ombudsperson	Number of inadmissible complaints
Legal remedies were not used - Article 22, item 1.4	5
No violation, poor administration - Article 22, item 1.1	1
Outside the jurisdiction - Article 21, item 1.3.1	1
Total	7

Of the cases under investigation, 6 are based on individual complaints, while 4 cases were opened *ex-officio*. Of the individual complaints, two are due to failure to respond to submitted complaints, two complaints due to allegations regarding the lack of transportation for students, including children with special educational needs, one complaint alleging inadequate treatment of students in a private school, and one complaint regarding accommodation in the student dormitory.

Cases that have been initiated *ex-officio* address the issue of non-accreditation of study programmes¹⁸⁸, school dropout in the municipality of Gjakova,¹⁸⁹ using sign language and curricula¹⁹⁰ and state responsibilities and obligations in relation to physical and psychological violence in schools.¹⁹¹

Of the cases opened for investigation (22), 12 of them have been closed, of which 6 have been resolved at the request of the parties, in 4 cases it was found that there was no violation or poor administration by the institutions against which the investigations were opened, and 2 cases were closed due

to the failure of the complaining parties to cooperate with the Ombudsperson.

In relation to the right to education, the Ombudsperson published 3 reports with recommendations during the reporting year¹⁹² and 1 letter of recommendation.¹⁹³ It also provided a statement on the reporting of sexual harassment, which expressed the concerns about the alleged sexual harassment in the public University of Prishtina.¹⁹⁴

In terms of education of children with special educational needs, a number of assistants were hired in 2024 for children with special educational needs, however there are still students who do not have the support of assistants. Therefore, it is necessary to continue hiring assistance according to students' needs.

The Ombudsperson notes that regarding early childhood education, the number of children attending kindergartens continues to be low, therefore it is necessary to increase capacities for the inclusion of children in early childhood education.

The education system for children of the Serbian community continues to operate with the curricula of the education system of the Republic of Serbia and in violation of Law No. 03/L-068 on Education in Municipalities of the Republic of Kosovo, without notifying the Ministry of Education, Science, Technology and Innovation.¹⁹⁵

Regarding the distribution of textbooks for primary and lower secondary education students, it has been reported that the process of distributing textbooks has been accompanied by problems and delays this school year. Regarding this issue, it has been reported that the Assembly of Kosovo, through the Parliamentary Investigative

¹⁸⁸ C/1204/2024

¹⁸⁹ C/1178/2024

¹⁹⁰ C/1128/2024

¹⁹¹ C/661/2024

¹⁹² Cases No. 359/2023; 636/2023; 637/2023

¹⁹³ Case No. 292/2024,

¹⁹⁴ <https://oik-rks.org/en/2024/04/25/the-ombudspersons-statement-regarding-the-reporting-of-sexual-harassment/>

¹⁹⁵ Article 12, paragraph 12.2, of Law No. 03/L-068 on Education in Municipalities of the Republic of Kosovo

Committee, has hired an expert regarding the process of subsidizing textbooks.¹⁹⁶ Therefore, the Ombudsperson considers it necessary for the textbook distribution procedures to begin in a sufficient period of time so that students are supplied with textbooks without delay.

Despite many efforts, MESTI has failed to complete the recruitment procedures for education inspectors this year. The lack of a sufficient number of education inspectors causes delays in the process of evaluating teacher performance and also affects quality assurance in education.

Based on the recommendations issued by the Ombudsperson, it can be concluded that the adoption of the Law on Higher Education and the implementation of the legal provisions in force, which would help improve the quality of education, still remain a challenge for educational institutions. Despite some improvements, the inclusion of all children in education, especially vulnerable groups of children with disabilities and children from non-majority communities, remains a challenge. Additionally, considering the best interests of children, it remains a challenge to provide more support and transportation for children with special educational needs, and especially to provide a sufficient number of assistants for children with special educational needs.

A public debate took place in November in the country which raised concerns about the textbooks on sexual and reproductive health education used by teachers. The municipalities of Prishtina, Fushë Kosova, Lipjan and Gjilan objected to the textbooks one by one and removed them from use. Following these reactions, on November 15, MESTI also decided to remove the textbooks from use in schools, announcing the establishment of a commission to review them.¹⁹⁷ The OI welcomes the review and improvement of certain parts of the

manuals to make them clearer and more understandable for teachers, addressing the concerns raised. Furthermore, in April 2023, the OI published the *ex-officio* Recommendation Report No. 577/2021, regarding “Sexual and reproductive health rights”, following an investigation of these rights based on direct evidence from women and girls. The OI recommended MESTI to ensure that sex education is age-appropriate and offered as a regular subject for all children and adolescents in Kosovo schools¹⁹⁸. Sex education is an important part of the development and well-being of children and young people, because it gives them accurate information and the tools to make decisions about their health, relationships and identity. Furthermore, sex education helps girls and boys to protect themselves from violence by promoting relationships based on respect, equality, reconciliation and free will, reducing the risk of abuse and violence.

Freedom of the Arts and Sciences

Freedom of the arts and sciences, as one of the most specific forms of manifestation of artistic and scientific thought, in addition to international instruments, is also guaranteed by national legislation, the constitution and other legal acts. The Constitution of the Republic of Kosovo (hereinafter referred to as the Constitution), in Article 48, explicitly states: “1. *Freedom of artistic and scientific creativity is guaranteed.*” “2. *Academic freedom is guaranteed.*”¹⁹⁹

Freedom of the arts and sciences means the freedom and right of everyone to participate in the creation of scientific and artistic works, and enjoy inalienable protection of the interests arising from the works as an author, which are the result of their creativity. These aspects of freedom of artistic and scientific creativity and copyright are decisively defined by the UDHR in Article 27 (paragraphs 1 and 2), unlike the ECHR, which has not

196 <https://www.youtube.com/watch?v=cLwk3uUbgA8> Lajmet e orës 20.00, Klan Kosova, 09.11.2024.

197 <https://kallxo.com/lajm/mashti-largon-nga-perdorimi-doracaket-per-edukimin-seksual-ne-shkolla/>

198 <https://oik-rks.org/en/2023/01/10/ombudspersons-report-ex-officio-no-5772021-related-to-the-rights-on-sexual-and-reproductive-health-access-to-contraceptive-information-and-services-abortion-post-abortion-care-and-matern/>

199 The Constitution of the Republic of Kosovo

defined it as a specific right, but this does not mean that freedom of art and science is outside the scope of the ECHR, as well as the jurisprudence of the European Court of Human Rights²⁰⁰ (ECHR).

The Ombudsperson considers the adoption of Law No. 08/L-245 on Art and Culture as a very important step, but the law in question also foresees new issues, for example, Article 27 talks about the Status of the Meritorious Artist, the criteria and procedures for enjoying the right to this status, the level and contribution as well as the modalities of the benefits that the artist who possesses this status can enjoy, which without a sub-legal act remains only a right provided for on paper, because its implementation can only be specified by a sub-legal act. Therefore, the Ombudsperson recommends the MCYS to undertake steps in order to develop normative acts as an actual opportunity to put the law in question into practice.

The Right to Work and Practice a Profession

The right to work and practice a profession is guaranteed by the Constitution of the Republic of Kosovo²⁰¹ and is in line with the international human rights instruments directly applicable in the Republic of Kosovo.²⁰² This right is also regulated and protected by basic laws, which determine the rights and obligations arising from the employment relationship.²⁰³

The Ombudsperson underlines that the realization of citizens' rights in the field of employment relationships is of particular importance for the status of every citizen and is at the same time an indicator of how the state fulfills its obligations towards the citizens. The constitutional guarantees for the right to work and the right to free choice of profession create an obligation for institutions

to protect these rights equally for all and to ensure full respect and implementation of the relevant legislation.

The Ombudsperson continues to treat employment relationships as one of the main important issues in the review of complaints filed by persons working in public and private institutions in the Republic of Kosovo.

During 2024, the Ombudsperson received 179 complaints regarding the right to work and practice a profession. The complaints received by the Ombudsperson dealt with: termination of employment, failure to realize the right to salary and salary reduction, unfair placement in the workplace, removal of allowances or inadequate and unequal treatment between positions defined by law. The complaints received were filed by public and private sector entities as group complaints²⁰⁴, individual complaints and complaints filed through unions²⁰⁵.

Like previous years, 2024 was characterized by strikes in several sectors for better working conditions, such as cleaning workers in the Assembly of Kosovo, technical and physical security workers at the University of Prishtina, the private sector, miners at the Trepça Combine, etc., all of which demanded improved working conditions and higher salaries.

The Ombudsperson finds that during this reporting period, there were various violations of the law from the employment relationship both in the public sector and especially in the private sector, including discrimination, such as: violations of employment procedures, unlawful termination of employment, as well as violations related to the duration of working hours, compensation for overtime work, denial of the right to annual leave and maternity leave, and failure to realize the right to salary.

The Ombudsperson assesses that the Labour Inspectorate (LI) as a preventive

200 The European Court of Human Rights

201 The Constitution of the Republic of Kosovo, Article 49.

202 Ibid., Article 22.

203 Law No. 03/L-212 on Labour; Law No. 03/L-145 on Civil Service; Law No. 03/L- 147 on Salaries of Civil Servants; Law No. 04/L-008 on Economic Social Council.

204 *Ex-officio* 1157/2024, on the strike of technical workers in the Assembly of the Republic of Kosovo

205 Case No. 59/2024, complaint by the Independent Union of the Kosovo Administration

mechanism and responsible for implementing the law, should uniquely and continuously control all workplaces, both in the public and private sectors, including working conditions, occupational safety and the protection of workers' health in general, especially to act actively to prohibit all types of discrimination.

The Ombudsperson also finds that legal protection regarding any right violated by the employment relationship is not at the appropriate level because legal proceedings in employment disputes last approximately 6 to 8 years until a final decision is made by the court, placing workers in a difficult position in realizing their rights.

The Ombudsperson highlights that the Economic and Social Council remained non-functional during this reporting period, causing obvious and ongoing consequences because it calls into question the purpose of establishing this council and developing social dialogue in the Republic of Kosovo for employees and employers, on issues of particular importance, related to the realization of their economic, social and professional rights, which are realized through dispute resolution through bilateral or tripartite agreements.

The Ombudsperson draws attention to the fact that collective employment agreements are an instrument for regulating working and employment conditions and enforcing employment rights. The provisions of the collective contract have a general legal effect and they supplement or replace legal norms. The fact that even during 2024, the Government's will to reach a general collective agreement (which had expired in 2018) was lacking, has contributed to the deterioration of employment rights in the public and private sectors.

The Ombudsperson draws attention to the importance of approving the collective employment contract as an important instrument that guarantees the enforcement of legal rights, the improvement of working conditions and the enforcement of other rights from the employment relationship.

During the reporting year, the Ombudsperson

addressed several issues related to the reduction of salary coefficients which were initially determined with the entry into force of Law No. 08/L-196 on Salaries in the Public Sector, but later with the revision of the coefficients, the coefficients were reduced, and employees were forced to return the salary difference.

Regarding this issue, the Ombudsperson is in the investigation phase, namely assessing the legal certainty and legitimate expectations of employees whose salaries have been reduced without an administrative act, and without providing the opportunity for legal remedies.

In addition, while handling the cases, the Ombudsperson has noted that the lack of health and life insurance for employees in the Republic of Kosovo remains a concern, especially for positions that pose a risk to the health or life of employees.

During the reporting year, the Ombudsperson encountered a very serious problem which has been repeated by the Government and the Assembly of the Republic of Kosovo in the legislative processes, namely the failure to apply the instructions and findings issued by the Constitutional Court in Judgment KO 216/22 and 220/22 regarding the assessment of the constitutionality of Law No. 08/L-197 on Public Officials, in the case of assigning the mandate to middle and lower managers, who acquired this right, before the entry into force of the law mentioned above. The Ombudsperson has noted that despite the findings of the Constitutional Court that such a norm is unconstitutional, the Government and the Assembly have continued to establish the same norm in the procedure for amending and supplementing Law No. 08/L-197 on Public Officials, as well as Law No. 08/L-257 on the Administration of Tax Procedures, as well as the Customs and Excise Code No. 08/L-247. The Ombudsperson accentuates the fact that such a practice, in addition to undermining the principle of legal certainty and legitimate expectations, also contradicts the Constitution of the Republic of Kosovo, namely Article 116 [Legal Effect of Decisions], paragraph 1, which states that: "*Decisions of*

the Constitutional Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo.”

Protection and Safety at Work

Law No. 03/L-212 on Labour, Article 42, paragraph 1, stipulates that “*An employee is entitled to occupational safety, protection of health and appropriate labour environment in compliance with this Law and the Law on Occupational Safety, Protection of Health of Employees and Protection of Labour Environment.*” A safe and healthy working environment is a prerequisite for preventing hazard in the work process, in order to preserve the life, health and dignity of employees.

During 2024, the Ombudsperson has followed with concern the reported cases of accidents at work and the cases in which workers have lost their lives. According to the Ombudsperson’s statistics, the number of accidents at work that end in fatalities remains high and quite worrying. During 2024, according to official data in Kosovo, 524 cases of accidents at work were recorded, of which 6 cases resulted in fatalities.²⁰⁶ The largest number of these workplace injury cases have been identified in high-risk sectors such as construction, manufacturing, electricity, services, etc.

The Ombudsperson notes inconsistencies in statistical data, which is a concern because there is no integrated system for collecting data on cases reported by the relevant authorities. This is understood from the data published by the Private Sector Workers’ Union in Kosovo, which claims that 12 people lost their lives in the workplace in 2024, emphasizing that most fatal cases occurred in the construction sector, where more deaths in the workplace are recorded.²⁰⁷ Therefore, the reliability of this data remains challenging and disputable.

The Ombudsperson emphasizes that these

figures remain even more challenging in the Republic of Kosovo, when we consider the overall socio-economic and cultural development as well as the level of enforcement of labour relations legislation and occupational safety and health.

In this regard, following investigations conducted on occupational safety and health, the Ombudsperson this year published *Ex-Officio* Report No. 252/2021²⁰⁸ to assess how public authorities, responsible for implementing the law, are fulfilling their obligations in taking measures to prevent accidents at work, and to ensure safety and health in the workplace for employees, both in the private and public sectors.

Regarding the rights to occupational safety and health protection in the Republic of Kosovo, the investigations identified a multitude of violations of rights that are also related to the violation of the dignity of workers, especially among private sector employees.

The report in question was based on accidents and injuries in the workplace that occurred between 2004 and 2023. Among other things, the Ombudsperson found that the loss of life and other injuries and health damage in work environments or work-related environments are primarily a consequence of the lack of protective and preventive measures, emphasizing that the lack of safe working conditions continues to be a concern, especially in those sectors that have been identified in this Report as more prone to risk. In this regard, the Ombudsperson also concluded that occupational health is a field that is still not legally regulated in many segments and has not been addressed in terms of the organization of the institutional chain, which would implement the obligations of public authorities in the protection of occupational health. Therefore, in a general sense, this is aggravated by cases of lack of employment contracts, lack of health insurance, denial of the right to rest (daily, weekly, annual, medical, maternity leave), lack of training

²⁰⁶ Response of the Labour Inspectorate of 19 December 2024

²⁰⁷ Meeting with the President of the Independent Private Sector Union, on December 19, 2024. The data for 2024 refer to the period January-November 2024

²⁰⁸ <https://oik-rks.org/2024/02/22/raporti-i-avokatit-te-popullit-ex-officio-nr-2522021-lidhur-me-sigurine-dhe-shendetin-ne-pune/>

of workers on occupational safety and health, etc. The measures undertaken so far by the competent bodies in relation to the prevention of violations have been scarce and insufficient.

Referring to the report in question, the Ombudsperson has concluded that the Labour Inspectorate is failing to fulfill its responsibilities and obligations under the legislation in force and the standards set by the International Labour Organization, especially in terms of the correct application of its mandate, in relation to the obligations of employers to create safe and healthy working conditions and respect for labour legislation in terms of labour relations with employees. Based on the findings of the report, the Ombudsperson has addressed recommendations to the competent authorities, the Ministry of Finance, Labour and Transfers, the Labour Inspectorate and the Ministry of Health.

On March 12, 2024, the Ombudsperson organized a roundtable discussion with representatives of the country's trade unions to address important issues regarding workers' rights and occupational safety and health. At the roundtable, the Ombudsperson reiterated the need to respect the rights of employees, social dialogue and freedom of trade union organization, the protection of occupational safety and health, etc. The roundtable concluded with the following conclusions: the responsible institutions need to take action to sign the collective agreement, the early implementation of the health insurance law, the establishment of a court that deals with the resolution of labour disputes, the early functionalization of the National Council for Occupational Safety and Health and the Social Economic Council, etc.

The Ombudsperson is particularly concerned about the lack of investigation of workplace accidents by responsible institutions and investigative bodies, as well as the failure to punish employers for failing to provide workers and jobs with safety.

Health and Social Protection

Article 51 of the Constitution of the Republic of Kosovo, Article 1, stipulates as follows: *"Health care and social security are regulated by law"* while paragraph 2 of this Article stipulates: *"Basic social security, which relates to unemployment, illness, disability and old age, is regulated by law."*

In 2024, the OI received 211 complaints regarding the violation of health and social rights. It is worth noting that during the reporting year, 69 cases were opened for investigation in the OI, of which 5 cases were opened on the OI's own initiative, i.e. *ex-officio*. In terms of inadmissible complaints, it should be noted that their inadmissibility was mainly related to the failure to exhaust legal remedies, the lack of competence of the Ombudsperson in relation to the complainants' requests, when the procedures were being developed by other competent bodies, etc.

Among the main identified challenges faced by citizens and health institutions during 2024 were the lack of medicines from the essential list, long waiting times for citizens to receive certain types of services at health institutions, high out-of-pocket expenses for citizens' treatment at home and abroad, infant mortality, lack of health insurance, insufficient budget for health institutions, etc.

While in the social field, the OI has received and handled complaints regarding: termination of pensions, non-recognition of rights to double pensions, complaints about non-payment for health treatments abroad, complaints regarding the blocking of pensioners' bank accounts by private enforcement agents, administrative silence in review procedures when decisions have been returned by the courts, complaints regarding housing and shelter, requests for the assessment of compliance with the Constitution by the Constitutional Court of Law No. 08/L-248 on Amending and Supplementing Law No. 04/L-131 on State-Funded Pension Schemes, etc.

The right to health in international human rights law is regulated by acts of a universal

character, as well as by the conventions of the Council of Europe.²⁰⁹ The right to health, or rather the protection of this right, is not provided as a separate article of the ECHR, but public health in its text appears as one of the interests that can justify “interference” with material rights/qualified rights.²¹⁰

Health rights in Kosovo are guaranteed by laws and other legal acts, which define the rights and responsibilities of citizens in healthcare and the mechanisms for protecting and ensuring these rights and responsibilities. The legislation aims to provide a legal basis for preserving and improving the health of citizens of the Republic of Kosovo through health promotion, preventive activities and the provision of comprehensive and quality healthcare services.

Nevertheless, the number of complaints received by the OI during the reporting year has shown that the mechanisms for protecting and ensuring these rights have so far proven to be insufficient and as a result there is still a lack of provision of comprehensive and quality healthcare services in the Republic of Kosovo.

Achievements in the health field during 2024 were proclaimed as the adoption of the Health Sector Strategy for the period 2025-2030, the adoption of the Health Security Action Plan 2024-2026, as well as the adoption of the Law on Compulsory Health Care Insurance by the Assembly of the Republic of Kosovo on December 5, 2024.

During the reporting year, the Ombudsperson opened several *ex-officio* cases from the scope of health rights, which mainly target the lack of medicines from the essential list, as well as the issue of fitting prostheses (in the hip or knee) to people over 65 years of age.

The Ombudsperson published four (4) reports during the reporting year in the field of health law with a total of 20 recommendations. Two reports are the result of complaints received from citizens and associations, while the

other two reports were initiated on the Ombudsperson's own initiative.

The Ombudsperson has investigated the complaint of the Association of Civilian Mine Victims²¹¹, against Decision No. 43/III/2024 of the Ministry of Health (MoH) of 22 March 2024, regarding the coverage of medical treatment of persons with the status of KLA war invalids. Regarding this case, it is noted that on March 20, 2024, the Government of the Republic of Kosovo adopted Decision No. 01/194, by which it approved the request of the Ministry of Health for the coverage of medical treatment of persons with the status of war invalids for the purpose of replacing, maintaining or installing prostheses, outside public health institutions, when the latter do not provide these services. After investigating this matter, on December 5, 2024, the Ombudsperson published Report No. 522/2024. In this case, the Ombudsperson found that Decision no. 43/III/2024, dated March 22, 2024, issued by the Ministry of Health, constitutes discrimination, because the decision in question determines only the benefits for persons with the status of KLA war invalid, excluding the category of persons with the status of civilian war invalid. The Ombudsperson has recommended the Government of the Republic of Kosovo to cancel Decision No. 43/III/2024, dated March 22, 2024, issued by the Ministry of Health, while the Ministry of Health has been recommended to take measures in accordance with Law No. 04/L-054 on the Status and Rights of Martyrs, Invalids, Members of KLA, Civilian Victims and Their Families, for the provision of special benefits for civilian war invalids.

The Ombudsperson has also investigated three individual complaints²¹² alleging violation of rights due to the exclusion of certain medicines, which according to the complainants, are essential for their health and life. *The first complainant* represented

209 European Social Charter (Article 11), Convention on the Elaboration of a European Pharmacopoeia; Convention on Human Rights and Biomedicine (Oviedo Convention)

210 See paragraph 2 of Articles 8, 9, 10 and 11 of the ECHR as well as Article 2, paragraph 3 of Protocol No. 4 of the ECHR

211 Case No. 522/2024

212 A. no. 526/2023, Case No. 812/2024, Case No. 867/2024

the Association for the Support of People Affected by Melanoma, and complained against the Ministry of Health for not including the “braf positive” therapy in the List of Essential Medicines (LEM) for the treatment of patients with Melanoma. *The second complainant* complained against the Ministry of Health for not providing free immunotherapy “pembrolizumab” for the treatment of patients with liver metastatic carcinoma. According to the complainant, this therapy was in the LEM, but was provided free of charge only to patients with melanoma and lung cancer, but not to those with other diseases. *The third complainant* filed a complaint against the Key Committee for the List of Medical Products and Consumables in the Ministry of Health, regarding the request to include the medical product “Pirfenidone” in the list of medical drugs for the treatment of the idiopathic pulmonary fibrosis. After investigating these cases, the Ombudsperson published a Report with recommendations regarding the undertaking of relevant actions to expand the List of Essential Medicines, including new medicines that can significantly improve the health and quality of life of citizens suffering from serious diseases.

The Ombudsperson has *ex-officio* opened a case for investigation regarding the state’s obligations to support and provide mental health services to people over the age of 65.²¹³ After examining this case, the Ombudsperson has undertaken investigative actions and based on the findings, the facts collected, as well as after analyzing the relevant laws and based on the case law of the European Court of Human Rights, concluded that the application of the age criterion to refuse access to persons over the age of 65 to mental health hospital services violates human rights and constitutes discrimination based on age. After investigating this case, the Ombudsperson has published the *Ex-Officio* Recommendation Report No. 601/2023²¹⁴.

In this report, the Ombudsperson found that the age limit of 65 years as a criterion for admission to residential institutions and the lack of sub-legal acts regulating this area constitute a violation of the legal provisions of the Law on Social and Family Services and the Law on Protection from Discrimination. Based on the findings of the report, the Ombudsperson has recommended the competent authorities to take measures to draft a national plan on aging, to include specific mental health services for older people and geriatric services, clearly defining the obligation to issue sub-legal act for the implementation of the law, etc.

The Ombudsperson has launched an *ex-officio* investigation²¹⁵ on the collection and reporting of health data in the Republic of Kosovo. After investigating the issue, the Ombudsperson published the *Ex-Officio* Recommendation Report No. 241/2022. The report concluded that the collection and reporting of data in the health sector remains unintegrated and distributed in systems that do not correspond, there is no integrated overview of data, which would be transformed and serve as evidence and as indicators for the development of policies and strategies in the health sector and this also results in stagnation in the provision of health services and the advancement of social welfare. Based on the findings of the report, the Ombudsperson recommended the Ministry of Health to fulfill its obligations and responsibilities under the relevant normative framework, to urgently and fully operationalize the Unique and Integrated Health Information System, at all levels and sectors of the health system in the Republic of Kosovo.

Upon complaint by the Federation of Health Trade Unions through the Ombudsperson, the Statute of the Clinical and University Hospital Service on July 3, 2024 ended up in the Constitutional Court, requesting the Constitutional Court to impose a temporary

213 *Ex-officio* case no. 601/2023

214 <https://oik-rks.org/2024/09/10/raport-i-avokatit-te-popullit-ex-officio-nr-601-2023-ne-lidhje-me-detyrimet-e-shtetit-per-mbeshtetjen-dhe-ofrimin-e-sherbimeve-te-shendetit-mendor-per-personat-e-moshes-mbi-65-vjecare-ne-republiken/>

215 Case No. 241/2022

measure and assess the constitutionality of the Statute with the Constitution.

The Kosovo Public Health Progress Report, published on 30 October 2024²¹⁶ in Brussels suggests that the quality of healthcare remains a concern. The report says that despite the fact that Kosovo has allocated an increased budget for healthcare compared to 2023, it remains the second lowest in the region and significantly lower than the average of EU countries, resulting in significant inefficiency and poor health outcomes.

The report highlights that the infant mortality rate in Kosovo still remains very high, while citizens' out-of-pocket expenses for their treatment also remain very high. The report further underlines the shortcomings that Kosovo has in collecting and reporting health data and emphasizes that the legislation on blood, tissues, cells and organs is not fully in line with EU legislation. It further states that Kosovo has a cancer screening programme, but cancer screening is not performed systematically and there is no functional cancer registry. The report specifies that doctor's prescriptions should be implemented by pharmacies in order to stop the common practice of selling medicines, namely antibiotics, without prescription. Finally, the report stresses that health inequalities remain a serious concern. The lack of adequate health financing has hindered progress towards universal health coverage and contributed to persistently high out-of-pocket payments. The financial burden has been particularly heavy for vulnerable and poor segments of Kosovo society, including people with chronic conditions who require regular medical care.

When it comes to social rights, the Ombudsperson reiterates that the International Covenant on Economic, Social and Cultural Rights continues to not be part of the Constitution of the Republic of Kosovo. Consequently, Kosovo does not have sufficiently regulated legislation in the social field, although there are laws, such as

the law on State-Funded Pension Schemes, or specific laws for some of the socially vulnerable groups such as blind people or paraplegic and tetraplegic people, but Kosovo still lacks proper legislation based on international standards that would regulate the field of social security for its citizens.

The Ombudsperson, referring to the complaints received and the investigations conducted within the framework of the issues addressed during the reporting year, finds that the economic and social situation of a vast majority of families in Kosovo is not good. The lack of adequate living conditions, poor conditions for vulnerable categories of society, the delay in judicial procedures for pension cases, as well as those of people with disabilities, are some of the most vulnerable groups, and in the absence of social measures and rehabilitation services for these social groups, they are often faced with undignified living conditions. The increase in pensioner complaints this year seems to be an indicator of the increase in poverty in the country.

The Ombudsperson notes that during the reporting year, the Government took several measures to improve the social situation for vulnerable groups in society, by increasing the value of pensions by 20%, or the decision on one-time supplements in December 2024 in the amount of EUR 100 for all pensioners, but due to inflation, the measures undertaken have had a short-term impact on improving the socio-economic situation for beneficiary families and individuals.

Based on its constitutional mandate and according to the powers and responsibilities defined by the Law on the Ombudsperson, the Ombudsperson has opened an *ex-officio* case²¹⁷ regarding the challenges faced by relevant state institutions and mechanisms in relation to the mental health of children up to the age of 18. The purpose of this investigation was to produce a comprehensive report regarding the challenges faced by relevant state institutions and mechanisms in relation

216 https://neighbourhood-enlargement.ec.europa.eu/document/download/c790738e-4cf6-4a43-a8a9-43c1b6f01e10_en?filename=Kosovo%20Report%202024.pdf

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to the mental health of children up to the age of 18. In this regard, the report aims to provide an overview of the current situation regarding mental health issues of children up to the age of 18, the causes of the problems, the consequences, the impact, the services provided for the treatment of individuals in this age group, as well as the measures available or that should be taken to prevent the expansion of mental health problems in this age group.

The Ombudsperson has also initiated an *ex-officio* case²¹⁸ and is addressing the issue of implementing the judgment of the Supreme Court of Kosovo regarding double pensions. The Ombudsperson notes that capacities for physical and psychosocial rehabilitation services for persons with disabilities need to be improved and enhanced in Kosovo.

Environmental Responsibility

The environment and the responsibility for the protection of the environment, defined as a right and value on which the Constitutional order is based, have entrusted the Ombudsperson with the mandate to protect, monitor and promote this right. Article 52 of the Constitution has imperatively determined that nature and biodiversity, the environment and national heritage are the responsibility of everyone, and at the same time has committed the public authorities to guarantee everyone the opportunity to influence decisions related to the environment in which they live.

The analysis of cases and monitoring of the state of the environment and the impact on human rights suggests that no decisions were taken during the reporting year that

would have a significant impact on improving environmental problems. In 2024, the Ombudsperson received 15 complaints, of which 4 were inadmissible. The cases relate to the restriction of the right to a safe and healthy environment, as well as the restriction of other rights due to the impact of environmental problems. The cases received relate to environmental pollution, actions in violation of the Law on Waters,²¹⁹ issues with the water infrastructure,²²⁰ constructions without municipal environmental permits,²²¹ waste pollution,²²² unsafe environment,²²³ inaction of authorities related to environmental problems, problems caused by stone crushing plants,²²⁴ noise²²⁵, conflict of powers between the local and central level²²⁶, failure to include environmental principles in environmental sub-legal acts, etc.

Air pollution continues to be one of the biggest environmental problems in the country with a serious impact on the health of citizens, however, effective measures and policies have not yet been taken to improve the situation. Based on monthly reports on the state of the air in the country,²²⁷ The Ombudsperson notes that there is no improvement in air quality, especially in the periods January-March and October-December. There were even 10 days when the PM10 was exceeded and also days when the PM2.5 was exceeded. Based on the data, the air quality in the municipality of Prishtina continues to remain worrying. No actions have been observed to reduce the use of lignite for energy production²²⁸, household wood²²⁹, inventive measures for

218 Case No. 614/2024

219 R/1334/2024

220 [R/995/2024](#), [R/683/2024](#)

221 R/ 823/2024

222 R/721/2024, R/527/2024

223 [A/410/2024](#)

224 Case No. 798/2024, [R/527/2024](#)

225 [A/1357/2024](#)

226 [R/1275/2024](#)

227 <https://www.ammk-rks.net/en/mjedisi/20/raportet-mujore>

228 Energy Strategy of the Republic of Kosovo 2022-2031

229 Energy Strategy of the Republic of Kosovo 2022-2031, around 57% of families use wood as the main source of heating

sustainable transport, measures to replace old cars with new ones²³⁰, as well as effective measures to reduce traffic loads.

Despite the need to join global calls for preventive measures against climate change, it is observed that uncontrolled exploitation of water resources, damage to river beds, discharge of untreated water, and their pollution with waste continue. Complete measurements are lacking and biological monitoring of waters for assessing water quality in river basins is not implemented.

The Ombudsperson has published a Recommendations Report regarding the complaint received from the citizens of “Rexhep Krasniqi” Street in the Kalabria Neighbourhood in Prishtina, regarding the serious situation caused by the pollution of the river/stream bed with sewage, waste including inert waste, the release of odours and the constant appearance of rodents and insects. The Ombudsperson, based on the situation on the ground, and in particular on the NPHI Report, which found that there is a permanent risk of the emergence of an infectious disease and consequently a risk to the health of citizens in this area, has assessed that the environmental situation created by the pollution of the river, making it impossible for the residents to have a quality life, constitutes a risk to their health. The Ombudsperson has concluded that the high level of pollution and the possibility of serious impact on human rights and the health of residents require urgent action by the responsible authorities to remediate the situation and clean the river, deratize and disinfest the areas, in order to prevent the restriction of the right to a safe and healthy environment, the right to privacy and family and the serious possibility of harming the health of residents from pollution. The Ombudsperson recommended to the Municipality of Prishtina that, in accordance with its legal powers and authorizations, it undertakes the necessary actions with immediate effect to clean the river and the areas around it, in the neighbourhood in

question: To act in accordance with the recommendations of the NPHI, to urgently investigate and eliminate possible spills of sewage and other potential pollutants; Municipal environmental and sanitary inspectors to take concrete measures to detect and solve this problem; and until a final solution, the stream running through the neighbourhood should be regularly maintained by the relevant structures and the residents themselves (removal of waste and garbage, and to prohibit dumping of waste in the stream). The Municipality of Prishtina has implemented the recommendations of the Ombudsperson²³¹.

The challenges with discharges into the environment due to the lack of water infrastructure and the impact on the violation of the right to a safe and healthy environment and privacy, are reflected in the Recommendations Report of the Ombudsperson, which was initiated based on the complaint of a resident of the village of Dujaka, in the municipality of Gjakova.²³² The report aims to assess the obligations of the responsible authorities regarding the violation of the right to a safe and healthy environment, the right to privacy, the right to life and the rights of children in a neighbourhood of the village of Dujaka in the municipality of Gjakova. The Ombudsperson, based on the findings, has concluded that the failure to fulfill its responsibilities by the Municipality of Gjakova, as the competent authority for water infrastructure and the environment, through effective measures in relation to the needs of the residents of the village of Dujaka, has resulted in the restriction of the right to a safe and healthy environment, the right to privacy, with the possibility of violating the right to life, as well as in violation of the right of children. The Municipality of Gjakova has fully implemented the recommendations of the Ombudsperson to take measures to regulate the water and sewage infrastructure in the village of Dujaka without delay, according to the recommendations of the NPHI report, as well as to take measures to cover the open

230 Information received by the Vehicle Registration Centre

231 Case No. 683/2024

232 Complaint No. 458/2022

part of the canal, which poses a risk to the life and safety of children and other residents.

There are still no actions in accordance with the mining strategy that would show steps towards keeping quarries and stone crushing plants under control. The running operators continue to fail to comply with environmental protection rules. The Ombudsperson has initiated an *ex-officio* case related to environmental pollution and damage to road infrastructure by local quarries in the village of Stanishor, Novobërdë municipality, and other surrounding areas²³³. The failure to rehabilitate the areas where the quarry operations have ended, a legal obligation, remains a concern. The Ombudsperson has investigated the case related to the failure to rehabilitate the areas where a quarry company had operated in the village of Kmetoc, Gjilan municipality. Not only was dust released from the areas, but there were pits that not only posed a permanent risk to the life and health of citizens, but had also been turned into places where waste of all kinds was collected. After the OI's response, the problems were remedied.

The Ombudsperson considers the situation of landfills to be worrying. All landfills have exceeded their tolerable capacities due to overcrowding, and pose a serious threat to the right to a healthy and safe environment of citizens. The landfill water pumping systems do not work, and there are also problems with the compression and covering of waste. The failure to separate waste at source and recycle waste continues. One of the cases under investigation is the violation of the right to a healthy environment and the privacy of citizens by the Landovica landfill, due to the collection of waste outside all standards, and the impact on air, water and soil. According to information received from the Landovica Landfill Management Company in Kosovo, a programme supported by foreign funds is being implemented, which will completely transform the situation of the Landovica landfill, and is expected to be completed in June 2026.

Regarding the respect of the three environmental principles of access to information, public participation in decision-making, and access to justice, no improvement has been observed. In this regard, the Ombudsperson published an Opinion based on the complaint filed by a group of citizens from the villages of Dollc, Gremnik and Dresnik of the municipality of Klina, which was accompanied by a petition signed by 3901 citizens, opposing the construction of a cement factory in the village of Dollc in Klina, claiming that it negatively affects the environment and human health. The Ombudsperson, in order to bring to the attention of the competent authorities, in this case the Ministry of Environment, Spatial Planning and Infrastructure and the Municipality of Klina, the importance of fully respecting citizens' rights by focusing on the fair balance between citizens' interests in environmental protection and the country's economic development in the field of the mineral industry, has concluded that citizens were not provided with adequate access to information about the purpose and timing of the public debate, and consequently not all interested citizens were given the opportunity to participate in the public debate. The Opinion of the Ombudsperson establishes that state bodies should take into account the preservation of the values established by the Constitution of the Republic of Kosovo, the preservation of public health, the preservation of the environment and its sustainable use, the preservation of water resources, the preservation of cultural heritage and the preservation of flora and fauna, so that all decisions on economic development processes, which may affect these natural phenomena, are accessible to interested citizens, are taken with great seriousness, analysis and detailed prior assessment, in such a way that the negative impact on the prevention of the enjoyment of human rights is as small as possible, and in such a way that citizens do not feel endangered for the enjoyment of their lives

233 C. No. 527/2024

and homes in the future by the developments of the mineral industry, under the shadow of information darkness.²³⁴

Failure to respect construction conditions,²³⁵ such as the percentage of the area allowed for construction within the plot in relation to the area of the cadastral plot and the preservation of greenery to absorb atmospheric precipitation, measures for balance and stability, the lack of emergency spaces, parking lots, sanitary spaces, construction waste management, natural and adequate lighting, environmental pollution, ventilation and noise, sanitary spaces, adequate access conditions to public roads and technical infrastructure, restrictions for the protection of natural, historical and cultural values, measures for efficiency and energy saving, according to the Ombudsperson, constitute serious violations of the rights of the country's citizens.

In particular, according to the Ombudsperson, failure to comply with the criteria for the safety of life and property from fire and other hazards attributable to the construction environment, as well as the creation of conditions for firefighters and other responders in cases of emergencies, are issues that require urgent treatment and serious attention from the state.

The challenges of insufficient inspection capacities, environmental cases in the prosecution and courts have not shown any improvement. Although the impact of air pollution on public health is now indisputable, the lack of an operational IHS makes it impossible to produce clear statistics regarding the impact of pollution on the health of citizens. In addition, there is still no research by the NPHI regarding the impact of polluted air on public health.

In order to promote the environmental law, on June 5, 2024, the Ombudsperson Institution, in cooperation with the non-governmental organization that focuses on promoting a healthy and clean environment EcoZ and

Save the Children Kosova/o, marked World Environment Day. The purpose of this activity was to discuss and educate on environmental law and the mandate of the Ombudsperson, with children aged 7-15 years, gathered in the Children's Environmental Assembly. On this occasion, the children contributed to the activity whose purpose was to promote through art the right to a healthy living environment as a human right. The children had the opportunity to present a healthy living environment and human rights through their creativity, painting and drawing.

The representative of the OI participated in the panel discussion of the event organized by UNDP at the launch of the Joint Report between UNDP Kosovo and Bosnia and Herzegovina, regarding the joint study on opportunities and challenges for gender mainstreaming in environmental justice. On this occasion, the positions of the institution regarding this topic were presented. Meanwhile, the positions of the OI regarding the impact of environmental problems on children's rights were given at the Conference organized by Eco Z "Environmental Sustainability with Children".

The positions of the Ombudsperson, in relation to environmental problems and climate change and their impact on human rights and equality in relation to human rights, were presented at the Regional Conference on Environment and Human Rights, organized by the Ombudsperson of North Macedonia, GANHRI, ENNHRI, UNDP, and the Seminar "Climate Change and its focus on its impact on equality" "Tools for equality bodies".

234 <https://oik-rks.org/2025/01/27/opinion-i-avokatit-te-popullit-a-nr-173-2021-ne-lidhje-me-detyrimet-pozitive-te-shtetit-per-respektimin-dhe-permbushjen-e-te-drejtave-te-njeriut-perkitazi-me-rastin-e-ndertimit-te-fabrikes-se-ciment/>

235 Law No. 04/L-174 on Spatial Planning

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National Preventive Mechanism against Torture

National Preventive Mechanism against Torture

The Ombudsperson acts as the National Preventive Mechanism against Torture (NPM), with a mandate to monitor all places where persons deprived of liberty are held, such as: police stations, detention centers, prisons, health institutions, customs detention, immigration, social care centers, as well as any other place, when there are suspicions of human rights violations.

The Ombudsperson may provide suggestions and recommendations to the responsible persons and institutions where persons deprived of liberty are held, regardless of the type or facility and circumstances of their detention, for the improvement of their treatment and conditions.

Visits conducted during 2024

No	Monitored institutions	Type of visit	Date of visit	
1	"Adem Jashari" International Airport- Prishtina	General and monitoring visit	04.01.2024	1
		Follow-up visit	24.04.2024	2
		Monitoring visit of forced return	15.08.2024	3
			18.12.2024	4
			24.01.2024	5
			27.02.2024	6
			05.03.2024	7
2	Detention Centre in Prishtina	<i>Ad hoc</i> visit	17.05.2024	8
			07.06.2024	9
			20.08.2024	10
			24.10.2024	11
3	Detention Centre in Gjilan	General visit	22.05.2024	12
		<i>Ad hoc</i> visit	02.10.2024	13
4	Detention Centre in Peja	General visit	04.11.2024	14
			08.02.2024	15
		<i>Ad hoc</i> visit	05.12.2024	16
5	High Security Prison	General visit	30.05.2024	17
		General visit	23-25.04.2024	18
6	Correctional Centre Dubrava	Follow-up visit	22.07.2024	19
		<i>Ad hoc</i> visit	02.12.2024	20

7	Juvenile Correctional Centre Lipjan	Follow-up visit	22.08.2024	21
8	Women's Correctional Centre Lipjan	Follow-up visit	07.03.2024	22
9	Juvenile Correctional Center and Juvenile Correctional Educational Center in Lipjan	General visit	15.05.2024	23
10	Juvenile Correctional Centre Lipjan	Follow-up visit	22.08.2024	24
11	Police Station in Podujeva	General visit	12.04.2024	25
12	Police Station in Istog	General visit	25.04.2024	26
13	Police Station in Shtërpçë	General visit	01.02.2024	27
14	Police Station in Drenas	General visit	21.05.2024	28
15	Police Station in Skënderaj	General visit	21.05.2024	29
16	Police Station in North Mitrovica	General visit	21.05.2024	30
		General visit	21.05.2024	31
17	Police Station in South Mitrovica	<i>Ad hoc</i> visit	11.09.2024	32
18	Police Station in Vushtrri	<i>Ad hoc</i> visit	11.09.2024	33
19	Police Station in Graçanica	General visit	04.10.2024	34
20	Green Line Surveillance Police Station in Leposavic	General joint visit with CRPK	23.07.2024	35
21	Green Line Surveillance Police Station in Klllokot	General joint visit with CRPK	24.07.2024	36
22	Border Crossing Point – Kulla	General joint visit with CRPK	27.02.2024	37
23	Border Crossing Point – Merdare	General joint visit with CRPK	20.03.2024	38
24	Border Crossing Point – Kulle, Radac	General joint visit with CRPK	17.04.2024	39
25	Border Crossing Point - Stanqic -Bellanoc (RKS – North Macedonia), Zhegër	General joint visit with CRPK	25.07.2024	40
26	Border Crossing Point – Vermicë	General joint visit with CRPK	20.09.2024	41
27	Border Crossing Point -Dheu i Bardhë	General joint visit with CRPK	02.10.2024	42

			16.02.2024	43
28	Detention Center for Foreigners in Vranidoll	Follow-up visit	21.08.2024	44
		<i>Ad hoc</i> visit	24.12.2024	45
29	Temporary Reception Center for Migrants - Vranidoll	General visit	07.06.2024	46
30	Regional Detention Centre in Prishtina	<i>Ad hoc</i> visit	14.03.2024	47
		Follow-up visit	13.09.2024	48
31	Home for the Elderly and People Without Family Care in Prishtina	General visit	28.05.2024	49
		<i>Ad hoc</i> visit	15.10.2024	50
32	Mental Health Centre in Prishtina	General visit	06.11.2024	51
33	Integrative Rehabilitation Center for Chronic Psychiatric Patients in Shtime	General visit	29.10.2024	52
34	Special Institute Shtime	General visit	29.10.2024	53
35	Community-Based House in Shtime	General visit	29.10.2024	54
36	Mental Health Centre in Gjilan	<i>Ad hoc</i> visit	02.10.2024	55
37	Detention Centre in Gjilan	<i>Ad hoc</i> visit	02.10.2024	56
38	Community-Based House – Ferizaj	Follow-up visit	18.04.2024	57
39	Community-Based House for People with Mental Disabilities in Prizren	Follow-up visit	13.09.2024	58
40	Community House for Elderly and Dependent Persons in Gurrakoc	General visit	11.11.2024	59
41	Asylum Centre Magure	General visit	19.03.2024	60
42	Psychiatry Cilinic	<i>Ad hoc</i> visit	25.04.2024	61
43	Psychiatry Clinic +UKIP	<i>Ad hoc</i> visit	13.05.2024	62
44	Psychiatry Clinic, UKIP, Psychiatry Clinic for Children and Adolescents	General visit	22.10.2024	63
45	Institute of Forensic Psychiatry	General visit	25.10.2024	64
46	Home for the Elderly and People Without Family Care in Skenderaj	General visit	11.11.2024	65

47	Home for the Elderly and People Without Family Care in Novobërdë	General visit	15.11.2024	66
48	Home for the Elderly and People Without Family Care in Graçanica	General visit	15.11.2024	67
49	Mental Health Centre Pejë	General visit	04.11.2024	68
50	"Community Integration House in Fushë Kosovë	General visit	06.11.2024	69
51	"Community Integration House Pejë	General visit	04.11.2024	70
52	Community Integration House in Mitrovicë	Follow-up visit	18.10.2024	71

During the year under review, six (6) recommendation reports were published and 35 recommendations were provided, of which nine (9) were implemented, five (5) were partially implemented, and 21 are pending implementation. Meanwhile, during visits to places of deprivation of liberty, over 330 interviews were conducted, and over 303 telephone calls were received, either on the toll-free number located in the complaint boxes, the OI landline number, or on the official numbers of the NPM team.

Monitoring of Detention Centres and Police Stations

According to its mandate, during 2024 the OI visited the following police stations:

- Police Station in Shtërpçë,
- Central Police Station in Prishtina,
- Police Station in Podujeva,
- Police Station in Istog,
- Police Station in Drenas,
- Police Station in Skenderaj,
- Police Station in South Mitrovica,
- Police Station in North Mitrovica,
- Police Station in Malisheva,
- Police Station in Rahovec,
- Police Station in Gjakova,
- Police Station in Gjiilan, and
- Police Station in Graçanica.

On December 3, 2024, the Ombudsperson published the Recommendation Report²³⁶ regarding the aforementioned police stations. According to the report, the Ombudsperson presented the findings from the monitoring and assessed whether the three fundamental rights of arrested persons were respected: the right to notify a family member or another person, of his/her choice, of the fact of the arrest; the right to a defense lawyer; the right to medical services as well as the conditions of accommodation in police detention centers.

The Ombudsperson has placed complaint boxes in police stations where there are cells for holding detainees, which are opened only by designated Ombudsperson personnel, but no complaints have been received. Furthermore, there have been several allegations from detainees that police officers have treated them professionally and very correctly in detention centers.

The Ombudsperson has received 78 complaints against the Kosovo Police, of which 19 complaints have been declared admissible for investigation, while six (6) cases are being investigated *ex-officio*.²³⁷

Regarding citizens' complaints against the Kosovo Police, the Ombudsperson's representatives have taken appropriate action by contacting the Kosovo Police,

²³⁶ <https://oik-rks.org/wp-content/uploads/2024/12/KPD-1178-2024-Raport-i-Avokatit-te-Popullit-MKP.pdf>

²³⁷ Case No. 1333/2024, C. No. 1430/2024, C. No. 299/2024, C. No. 563/2024, C. No. 661/2024, C. No. 1206/2024

as well as submitting them to the Kosovo Police Inspectorate, with whom they have communicated until the completion of the investigations.

The Ombudsperson, from the findings during the visits to the aforementioned stations, concludes that all detention centers, specifically in the detention rooms (cells), do not have a call system (bell), in the absence of which there is a considerable risk that the police cannot intervene in a timely manner in the event of various incidents.

In some detention centers, there were no brochures with information on human rights. Although detainees are informed of their rights during the interview, through a signed form, the Ombudsperson considers that placing brochures and cards in the rooms would enable the detained person to be more accurately informed of his rights.

Regarding the material conditions of the detention centers, the Ombudsperson finds that the detention centers at the police stations in Prishtina, Drenas, South Mitrovica, North Mitrovica, Shtërpçë, Gjakova and Malisheva must remedy all defects, and also be renovated and made functional for the reception and detention of detained persons, according to the minimum standards of the European Committee for the Prevention of Torture.²³⁸ The Ombudsperson also finds that the interrogation offices at the Police Station in Podujeva must be adjusted and renovated according to these standards.

There was a lack of hygiene products in all police stations.

The food for detainees is of poor quality, dry and insufficient in quantity in all detention centers visited.

The Ombudsperson notes that in the police stations in Shtërpçë, Gjilan and Graçanica, the security cameras are not operational, therefore it is recommended to operationalize the security cameras in these detention centers as soon as possible, which are also additional guarantees for police officers. The latter have the biggest problem with people

who are users of narcotic substances and people with mental health problems, as they are difficult to manage and must be monitored continuously. These persons pose a risk to themselves and to police staff, as the staff is not trained to handle these categories of detainees.

The Ombudsperson notes that it has received concerns in all police stations and has observed that the working conditions of police officers in most of the aforementioned stations are unfavourable for work, as there is a lack of inventory, printers, hygiene products and vehicles.

Border crossing points

The NPM, based on the Cooperation Agreement between the Ombudsperson, UNHCR and the Non-Governmental Organization – Civil Rights Programme in Kosovo CRP/K, during 2024 carried out joint visits to the following Border Crossing Points:

- Border Crossing Point – Kulla
- Border Crossing Point Merdare
- Border Crossing Point Jarine
- Border Crossing Point Stanqiq – Bellanoc
- Border Crossing Point Vërmicë, and
- Border Crossing Point Dheu i Bardhë, as well as
- Border Surveillance Police Station (BSPS) in Radac, and
- Green Line Surveillance Police Station in Klllokot.

From the findings of the visits to the Border Crossing Points, the Ombudsperson concludes that the Border Crossing Points in Jarinë, Kulla and Dheu i Bardhë are located in very old containers, which may pose a risk to the health of police officers and do not meet the minimum conditions for performing work duties. In most of the aforementioned Border Crossing Points, there is a lack of and continuous defects in the photocopying system, which leads to delays in the processing of reports and cases, and makes the work of police officers difficult.

²³⁸ <https://rm.coe.int/16806cd1d5>

At the Border Crossing Point in Merdare, there is no female police officer engaged, which in case of a check of a citizen of the same gender, requires the transport of a female police officer from the Podujeva Police Station. The average age of police officers is old, and in most Border Points, there has been an insufficient supply of new uniforms for police officers.

At the Green Line Surveillance Police Station in Kllokot, the detention rooms are non-functional, which represents a violation of due procedures and a challenge for police officers. This Station has only two very old vehicles, which are insufficient for operational needs. This situation undermines the efficiency of border police operations and increases the risk of delays in control processes, but also endangers the lives of police officers.

The Ombudsperson at the Border Crossing Points in Vermicë and Dheu i Bardhë has received concerns from police officers regarding transportation problems for commuting. These transportation difficulties negatively affect the availability of officers to perform their duties, creating delays and obstacles in daily operations.

Meanwhile, at the Detention Center at the Border Crossing Point in Vermicë, security cameras are not functional. Regarding the findings, the OI will publish a recommendation report during 2025.

Correctional and Detention Centres

The Ombudsperson's NPM has continued to conduct unannounced monitoring of places where persons deprived of their liberty are held, both in correctional and pre-trial detention centers.

The NPM has conducted general, follow-up and *ad hoc* visits to these correctional and pre-trial detention centers:

- Detention Centre in Prishtina - 7 times,

- Detention Centre in Gjilan - 2 times,
- Detention Centre in Peja - 1 time,
- High Security Prison - 3 times,
- Correctional Centre in Dubrava - 3 times,
- Women's Correctional Centre - 1 time,
- Juvenile Correctional Centre - 2 times,
- Juvenile Correctional and Educational Center - 1 time, and
- Correctional Centre Smrekonicë - 1 time.

The unannounced visits to these correctional and detention centers were aimed at monitoring and assessing the respect for human rights, and physical and mental integrity of persons deprived of liberty. Interviews of persons deprived of liberty are always conducted without the presence of correctional officers, while the opening of complaint boxes in these centers is done every month.

The Ombudsperson has received 47 complaints this year, of which 21 cases have been opened and further investigations have been conducted.²³⁹ The nature of the complaints mainly concerns court decisions, decisions of the Parole Panel (PP), use of force by correctional officers, loss of benefits, transfers from one center to another, weekends and humanitarian visits, etc.

The Ombudsperson has received requests for assistance from citizens in several cases when their family members were arrested by Serbian authorities and held in prison in Serbia. Due to the lack of cooperation from the Serbian authorities, the Ombudsperson has contacted the Liaison Office of the Republic of Kosovo in Serbia, which, after visits to prisons, has informed the Ombudsperson about the situation of the arrested persons.

During 2024, the Panel had 797 working files, respectively requests for parole, of which 57 were carried over from 2023, respectively 56

²³⁹ C. No. 1319/2024, C. No. 459/2024, C. No. 455/2024, C. No. 938/2024, C. No. 10/2024, C. No. 1340/2024, C. No. 631/2024, C. No. 616/2024, C. No. 1418/2024, C. No. 638/2024, C. No. 192/2024, C. No. 251/2024, C. No. 945/2024, C. No. 584/2024, C. No. 1319/2024, C. No. 1298/2024, C. No. 1071/2024, C. No. 1940/2024, C. No. 968/2024, C. No. 835/2024, C. No. 327/2024

were unexamined requests, while 1 request was reviewed but for procedural reasons was not decided in 2023 and was carried over to 2024. Meanwhile, during 2024, the Panel received 740 new requests, respectively files for conditional release. The files of the convicts were received from 10 Correctional Institutions of the Kosovo Correctional Service, of which 361 were approved, 380 rejected, the procedure was terminated for 34, 6 were discarded and 16 were carried over.

During the period January-December 2024, the Kosovo Probation Service had 794 persons released on parole under supervision. During this period, 372 persons were released from prison, while the other 377 cases were carried over from previous years. During the reporting period, 356 persons released on parole completed their supervision, while 393 others are still under the supervision of the Probation Service. Of the total number of new cases, 369 cases are of adult age, while only 3 cases are minors. In addition, of the total number of new cases in this period, 365 cases are males, while only 7 cases are females released on parole from prison.

After the visits carried out in the above-mentioned centers, the Ombudsperson finds that the treatment of prisoners has been good and there has been no abuse or torture, despite having received several allegations of use of force in some cases, which were then investigated by the NPM team to see whether the cases were processed properly, by looking at the medical files and the reports of the investigation committees and until the decision regarding the allegations was made, and has found no violations.

Housing conditions are satisfactory in most Correctional Institutions. However, conditions vary from center to center due to infrastructure and the age of the facilities, such as: the Detention Center in Peja, Prizren, Mitrovica, the Correctional Center for Women in Lipjan, the Mother and Baby House in Lipjan, as well as some wards in the Correctional Center in Dubrava, which are in constant need of renovation. Funds

have been allocated for some centers and planning has begun for the construction of new centers, such as: Lipjan, Prizren and the Kosovo Institute of Forensic Psychiatry.

The Ombudsperson finds that health services in prisons are provided to persons deprived of liberty based on the Standard Operating Procedures of the Health Directorate in Prisons, the legislation in force and international standards. Meanwhile, regarding the confidentiality of the provision of medical services, the Ombudsperson finds that in the Detention Centers in Peja, Mitrovica and Prizren, there is not sufficient medical confidentiality, due to the conditions and working space.

Although social services are provided, they cannot be effective due to the insufficient number of social workers and because they are not located in the wards.

The Ombudsperson notes that the Correctional Service, with the aim of resocializing and rehabilitating prisoners, provides professional training, such as: welding, construction, fitter, carpentry, technical maintenance for water installation and electricity installation, tailoring and training for the production of filigree jewelry, etc. As part of resocialization and rehabilitation, secondary and university education is also offered to prisoners, however, the Ombudsperson encourages the Correctional Service to take adequate actions to motivate prisoners to participate in these activities.

The Ombudsperson values the entry into force of Administrative Instruction MoJ-14/2023 on the Functioning of the Economic Unit.²⁴⁰ This Economic Unit develops economic and production activities, provides services, employs prisoners based on the individual sentence plan for the purpose of resocialization and reintegration, and generates income for the needs of prisoners and the KCS. Therefore, efforts should be made to make this Unit fully functional.

Regarding contact with the outside world, the Ombudsperson finds that this right is

240 https://shkk.rks-gov.net/wp-content/uploads/2024/05/UA-GZ-MD-NR-14_2023-NJEK-03.01.24.pdf

fully respected by the Kosovo Correctional Service.

Mental Health and Social Care Institutions

The NPM visited all the wards in the following institutions:

- Psychiatric Clinic (Department of Addiction Diseases, Emergency and Intensive Psychiatric Care and Child and Adolescent Psychiatry),
- Institute of Forensic Psychiatry (IFP),
- Center for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime
- Mental Health Centre in Prishtina
- Mental Health Centre in Gjiilan,
- Mental Health Centre in Peja,
- Community Integration House in Bresje,
- Two Community Integration Houses in Mitrovica,
- Community Integration House in Peja,

The NPM also visited social care institutions:

- Special Institute in Shtime (SISh),
- Community-Based Houses (CBH) in Shtime, Ferizaj and Prizren.

Treatment for people with mental disabilities – mental retardation, is provided 24 hours a day at the Special Institute in Shtime and in 9 Community-Based Houses.

The Psychiatric Clinic in Prishtina is an organizational unit of the UCK which provides tertiary level services for the entire country (the only clinic in Kosovo) and in the absence of a regional general hospital, is obliged to also provide secondary level services for the Prishtina region.

The Addiction Diseases Department (ADD) treats all cases of addiction to alcohol,

prescribed drugs, narcotic substances (cocaine, heroin, etc.); the closed Psychiatric Emergency and Intensive Care Unit (hereinafter referred to as ICU) treats cases involuntarily; Child and Adolescent Psychiatry, which operates as part of the Psychiatric Clinic with a separate facility, which has 7 beds for hospitalization of children and provides outpatient-day services for those under 18 years of age. The ADD was undergoing renovation at the time of the visit on 22 October.

All wards (except the Emergency and Intensive Care Psychiatric Ward-EICP) are open and provide treatment at the request of the patients and in certain cases even without their will, based on the decision of the competent court. The Ombudsperson has published a Recommendation Report for the *visit to the Psychiatric Clinic of the University Clinical Center of Kosovo – Emergency and Intensive Care Psychiatric on 3 October 2023*²⁴¹. The Report provided 6 recommendations and during 2024, the NPM made a general visit to the Psychiatric Clinic to see if the Ombudsperson's recommendations had been implemented and it was found that 4 recommendations had been implemented and 2 were pending.

In *the Child and Adolescent Psychiatric Clinic*, based on the findings of the visit to the institution, the NPM finds that there is a lack of adequate space for hospitalized patients, since the space for outpatient services and hospitalization are not completely separated. There is a lack of regulation on the criteria for admission to hospitalization of children, there is a lack of regulation regarding the procedure for the first examination, follow-up and discharge of patients from the hospital, the issue of obtaining consent from parents for the treatment of children is not regulated, for example, in practice it has been observed that in the case of hospitalization, the clinic has a form that obtains consent from the parent who will stay with the child in the hospital, and in cases where the child receives treatment/counseling at the clinic,

241 <https://oik-rks.org/en/2023/10/04/ombudspersons-national-preventive-mechanism-report-with-regard-to-the-visit-conducted-to-the-psychiatric-clinic-of-the-university-clinical-center-of-kosovo-emergency-and-intensive-psyc/>

only verbal consent is obtained from the parent who brought the child for treatment, not necessarily consent from both parents. Regarding this issue, the Ombudsperson will publish a Report with recommendations for the responsible authorities.

In the closed *Emergency and Intensive Care Psychiatric Department* (EICP), the corridors and rooms have been whitewashed, the bathrooms for women have been functionalized, and cameras have been installed in the corridors. In addition, funds have been allocated by the Ministry of Justice and Health for the renovation and expansion of capacities. During the visit, the team noted that the patient files contained the assessment of three neutral doctors (not from the EICP Department doctors) for the continuation of involuntary treatment, the anamnesis, the history of the disease, the form for placement in isolation rooms, the request for admission to the hospital, but there is no consent for treatment and there is no informed consent. The Ombudsperson in the Recommendation Report for the Psychiatric Clinic²⁴², for the measure of isolation, recommended to develop a specific protocol for the use of means of restraint for psychiatric institutions, as required by Article 27 of the Law on Mental Health, which has not been implemented yet.

After visiting the *Institute of Forensic Psychiatry* (IFPK), the NPM found that some necessary renovations have been carried out and a budget has been allocated for the expansion of the premises. The IFPK continues to face the unresolved legal status, for which the Ombudsperson, in its latest report with recommendations²⁴³ reiterated the recommendation to the MoJ and MoH. IFPK has 36 beds, of which 12 are allocated for the Correctional Service, but there is a lack of space for women and minors. It is noted that there are not enough

beds, based on the numerous requests and due to inadequate infrastructure, there is no confidentiality during family visits.

It is worth noting as a positive that through the Council of Europe project, IFPK has developed the Standard Operating Procedures (SOP) document, which was also approved by the Ministry of Health and will begin training for all health and correctional staff.

The Center for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (CIRCPP) is an open-type institution and has a capacity to accommodate 60 to 65 people. The removal of permanent legal capacity is a concern identified in this Center, which was also raised by the Director, according to whom, in 10 cases, the removal of permanent legal capacity was applied, which is an unjust and motivated action to take away property, as was the case of B.R., which is still in court proceedings.

The Ombudsperson finds that the general situation at the CIRCPP regarding treatment and conditions in this institution is good, except that the Vocational Therapy unit is missing.²⁴⁴

Mental Health Centers and Community Integration Houses

Community and Residential Services in the Republic of Kosovo are provided through professional mental health services. A total of nine (9) Mental Health Centers (MHCs) operate in Kosovo, while the Mental Health Center in Deçan was opened in 2024. There are also nine (9) Community Integration Houses (CIHs), which provide residential mental health services in all regions of Kosovo.

In 2024, the NMP team visited three Mental Health Centres:

242 <https://oik-rks.org/en/2023/10/04/ombudspersons-national-preventive-mechanism-report-with-regard-to-the-visit-conducted-to-the-psychiatric-clinic-of-the-university-clinical-center-of-kosovo-emergency-and-intensive-psyc/>

243 <https://oik-rks.org/en/2022/11/30/ombudspersons-national-preventive-mechanism-against-torture-report-concerning-the-visit-conducted-to-the-institute-of-kosovo-forensic-psychiatric/>

244 Vocational Therapy is a process that aims to help individuals develop skills, knowledge and attitudes that prepare them to enter, return to or maintain suitable employment.

- Mental Health Centre in Prishtina,
- Mental Health Centre in Peja, and
- Mental Health Centre in Gjilan, as well as four (4)
- Community Integration Houses in Mitrovica (2)
- Community Integration House in Peja, and
- Community Integration House in Fushë Kosova.

Mental Health Centers are well organized, providing daily services, medication treatment, and psychosocial activities. According to the registration protocol, over 600 people receive services in these homes.

Community Integration Houses - provide 24-hour healthcare for the rehabilitation and social reintegration of clients with chronic psychotic disorders in remission.²⁴⁵ CIHs do not accept cases with mental retardation, dementia of all types, addiction diseases, nor social cases.

The NPM observed a close approach from the staff towards the residents and a mainly positive climate within the homes visited. The residents appeared well dressed and hygienic. No signs of physical injuries were found among the residents. The monitoring team interviewed the residents and received no complaints of any form of mistreatment.

In general, activities are carried out, such as: walks in nature twice a year, table tennis, listening to music, engaging in housework such as cleaning, cooking, and yard maintenance as much as they can. There was no overcrowding.

Social Care Institutions

Treatment for people with mental disabilities - mental retardation - is provided 24 hours a day at the Special Institute in Shtime and in nine [9] Community-Based Houses.

The general condition at the Special Institute in Shtime is very good in terms of treatment

and the conditions provided.

Through a Council of Europe project, the SISH has developed Standard Operating Procedures (SOPs), and all staff have been trained in Occupational Therapy.

Community-Based Houses (CBHs) operate in eight (8) municipalities: Kamenica, Deçan, Ferizaj, Vushtrri, Lipjan, Graçanica, Shtime and Prizren. The houses have a capacity for 10 residents, except for the CBH in Shtime with a capacity of 12 beds. The NPM has visited the CBHs in Ferizaj and Prizren and the findings from the visit have been submitted to the visited institution. The CBHs do not have an individual treatment plan for residents, they do not have regulations for the internal organization of work, while the workers are faced with non-payment for the guardian hours. The CBH in Ferizaj is in need of renovation, while the CBH in Prizren has undergone renovations including sanitation.

Homes for the Elderly and People Without Family Care

Through the National Preventive Mechanism against Torture, the Ombudsperson visited the following:

- Home for the Elderly and People Without Family Care in Prishtina (HEPWFC)
- Home for the Elderly and People Without Family Care in Skenderaj
- Home for the Elderly and People Without Family Care in Gurrakoc
- Home for the Elderly and People Without Family Care in Novobërdë, and
- Home for the Elderly and People Without Family Care in Graçanica.

The purpose of the visits was to assess the general condition of these homes, the challenges they face, the living conditions, have conversations with the elderly regarding treatment, nutrition, health, hygiene, as well as the implementation of the OI recommendations, sent through reports with

²⁴⁵ Remission is a medical term used to describe a period during which the symptoms of a disease are reduced or completely disappear.

recommendations in previous years.

Regarding the accommodation conditions, in the Home for the Elderly and People Without Family Care in Prishtina, the elevator has been functionalized, the family visit room has been renovated (they are waiting to be supplied with inventory), the security room, two bathrooms on the first floor, one bathroom on the second floor, the dining hall has been completely renovated, where the flooring and sanitation has been replaced. The Municipality of Prishtina has helped in adjusting the lighting in the yard. It was also noted that hygiene was at the appropriate level, with 4 (four) people engaged in cleaning every day with the contracted company. The team was informed that NLB Bank has donated kitchen curtains and a refrigerator, five (5) oxygen machines and several pulse oximeters. Additionally, internet and cable TV were installed in the halls, which were donated.

The Home for the Elderly and People Without Family Care “Zaim Bajrami” in Skenderaj is in need of renovations, such as whitewashing, securing inventory, arranging floors, arranging bathrooms, securing industrial washing machines, installing cameras, ventilation and arranging the elevator, which is the biggest concern for residents, as it has been broken for a year and is still not functional. In addition, there is a lack of an outpatient room for the staff, as they need it to clean wounds, give any infusions or injections to the residents.

In the Community House for the Elderly and People Without Family Care in Gurrakoc, it was noted that there is a need for renovations and according to the information we received during the visit, the works will begin soon, a premise that will be monitored by the NPM. In addition, on October 1, 2024, the park located in the yard of the house was functionalized, with investments from the Municipality of Istog.

In the House for the Elderly and People Without Family Care in Novobërdë, the living conditions are generally good and

meet the minimum standards. Despite this, the Municipality plans to continue with renovations as needed in 2025.

In the Home for the Elderly and People Without Family Care in Graçanica, the accommodation conditions were good. Renovations had taken place last year (2023), the flooring had been completely replaced. The rooms were bright and supplied with new beds, mattresses and a wardrobe, donated by the church of Graçanica. In this house, only one room was not functional, because there was humidity.

The Ombudsperson concluded from the visits carried out in the aforementioned homes that in general the elderly in these homes are treated very well and with dignity.

Regarding the accommodation conditions, they are generally good except in the Home for the Elderly in Skenderaj which needs renovation and the repair of the elevator. The findings of the visits have been discussed with the managers of the institutions who have been informed that the Ombudsperson will submit a report with recommendations.

Rights of Foreigners

During 2024, the Ombudsperson received a total of ten (10) complaints from foreigners, of which three (3) are open to investigation and have been processed further, while ten (10) of them were inadmissible. Foreigners, within the framework of guarantees against abuse, have the same rights as all other categories of detained persons, which is what was addressed in the cases mentioned above. The complaints received were not related to treatment in detention centers, but were of other natures. A complainant has filed a complaint due to the inadequate treatment of his children by the “ILG SCHOOL” in Prishtina, which case was closed due to the party’s lack of cooperation with the OI²⁴⁶ or the case of a foreign woman who requested mediation in court to resolve her case, which was also concluded, following actions taken by the OI²⁴⁷; or when a foreigner has complained against the court for not providing

246 C. No. 888/2024

247 C. No. 250/2024

translation into a language he understands (Greek)²⁴⁸, etc.

The Ombudsperson conducted visits to the following centres for foreigners:

- Temporary Reception Center for Migrants, once,
- Detention Center for Foreigners, 3 times and
- Asylum Center, once.

The Reception Center has the function of receiving and accommodating migrants (24/7), persons with irregular status in the territory of the Republic of Kosovo, and takes care of the conditions, protection and well-being of migrants according to the legislation in force.

The NPM has not received any complaints regarding the treatment or conditions from persons placed in this center.

The Ombudsperson has found that there is a shortage of staff and at least one nurse, and these concerns have been conveyed to the head of the Center, and after the publication of the report, the Ministry of Interior will be recommended to take action.

Detention Center for Foreigners, in Vranidoll (DCF) – On November 15, 2024, the Ombudsperson published a Report with Recommendations²⁴⁹ on the visit to this center. The purpose of this visit was to monitor the respect of the rights of foreigners held in the DCF, which are provided for by Law No. 04/L-219 on Foreigners, the Law on Asylum, Regulation No. 04/2018 on the Functioning of the Detention Center for Foreigners and international human rights standards. The Ombudsperson received a complaint from this center, which after review by the Ombudsperson was declared inadmissible, because the party was using legal remedies (waiting for a response to the asylum application), while there were no

complaints regarding the treatment at the Center.

The Ombudsperson finds that in the absence of qualified medical personnel, the Center's personnel administered therapy to detained foreigners, based on the report written by the competent doctor, which is in violation of Law No. 04/L-219 on Foreigners, Regulation No. 04/2018 on the *Functioning of the Detention Center for Foreigners* and international standards set for immigration detention. Regarding this finding, the Ombudsperson has also recommended in previous years that *"the QMH should have at least one nurse available, who would distribute therapy and take care of the medical files of foreigners in the QMH"* and which is pending implementation.

The Ombudsperson finds that due to the lack of qualified medical personnel, health reports are kept together with the general file of the foreigner, which violates the confidentiality of medical services and is in violation of *Regulation No. 04/2018 on the Functioning of the Detention Center for Foreigners*, the provisions of *Law No. 03/L-172 on the Protection of Personal Data*, as well as international standards. For this finding, the Ombudsperson has also provided recommendations in previous years, however, these recommendations are still pending implementation.

The Ombudsperson has found that the cameras, which are additional guarantees for both the people working and the people being held in the center, do not have a clear view, some do not even work at all, and the lighting behind the facility is very poor. For this finding, the Ombudsperson has recommended in the Report with Recommendations during 2022²⁵⁰, which is pending implementation.

Considering that immigration detention is a form of administrative detention of persons and not classic detention, the Ombudsperson's

248 C. No. 526/2024

249 <https://oik-rks.org/en/2024/11/18/ombudsperson-report-of-the-national-mechanism-for-the-prevention-of-torture-on-the-visit-to-the-detention-center-for-foreigners-in-vranidoll/>

250 <https://oik-rks.org/en/2022/07/26/report-with-regard-to-the-visits-conducted-to-the-detention-centre-for-foreigners-in-vranidoll/>

NPM finds that Regulation No. 04/2018 on the *Operation of the Detention Center for Foreigners* has limitations regarding contacts with the outside world, such as access to the internet, Skype, and that there is a lack of recreational activities, especially for persons staying for long periods of time.

Regarding the findings on communication with the outside world, the Ombudsperson recommended in the Recommendation Report 2022 as well²⁵¹, that “*detained foreigners should be allowed to communicate online with their families*”, which is pending implementation.

The NPM has conducted a general visit to the Asylum Seekers Centre in Magure, with the aim of assessing the respect for the fundamental rights of asylum seekers.

The capacity of the Asylum Seekers Center in Magure is 100. During the visit, 32 people who had applied were accommodated in the center, of which two families with children, while 28 people were in private housing. The asylum seekers were mainly from Syria, Jordan, Morocco, South Africa, etc. Two unaccompanied children were accommodated in the center.

After the visit, the Ombudsperson found that the general situation in the Asylum Center is good and that the center provides good living conditions. The Ombudsperson has not received any complaints of mistreatment or other violations of human rights. Civil society organizations are also engaged in the Asylum Center, which provide support in specific areas, such as: provision of health and psychological services, education, translation, legal aid, etc.

The Law on Foreigners remains a challenge which has been in the process of being amended for almost two years and has not been finalized.

Monitoring of Forced Return Operations

The Ombudsperson Institution, based on the Memorandum of Understanding with

the Swiss National Commission for the Prevention of Torture, monitored three (3) operations of forced return of citizens of the Republic of Kosovo by the Swiss authorities at the “Adem Jashari” Prishtina International Airport during 2024.

During the monitoring of the operations, the NPM team interviewed the forcibly returned persons, but did not receive any complaints regarding their treatment by the Swiss authorities and the Kosovo Police. The returnees were informed about the mandate of the NPM and the OI, as well as the possibility of addressing the Ombudsperson at the central office and regional offices throughout Kosovo.

After each monitoring of forced returns from Switzerland, based on the cooperation agreement, the NPM compiled a notification report for the Swiss side. In addition, during the monitoring of these operations, the NPM had full cooperation with the Kosovo Police, monitoring from the moment the plane landed.

Further, the NPM conducted a general visit and informed the airport authorities, namely the Kosovo Police, that the Ombudsperson’s Recommendations for providing promotional and informational material on the rights and obligations of detainees have not yet been implemented. From the response received by the Kosovo Police, the Ombudsperson was informed that these recommendations have been implemented.

251 Ibid

Human rights oversight in the Kosovo Security Force

Based on the role and powers described in the Constitution, the role and supervisory powers of the Ombudsperson in Kosovo also extend to the Security Sector. It is essential to note that the Constitution of the Republic of Kosovo clearly states that “*Civilian and democratic control over security institutions shall be guaranteed*” (Chapter XI [Security Sector], Article 125, paragraph 4).

National Human Rights Institutions (NHRIs), which operate in accordance with the Paris Principles, are considered effective and credible institutions that can exercise a supervisory role even in sensitive and complex sectors such as the security sector structures. Our country has respected the best standards in the constitutional and legal order of the country when it endowed the Ombudsperson’s Institution with the attributes of an independent constitutional institution in the exercise of its duties and which does not accept instructions or intrusions from other authorities exercising authority in the country (Chapter XII [Independent Institutions], Article 132, paragraph 2).

However, the Assembly of the Republic of Kosovo, following the legislation in force, decided that in the chain of oversight of the security sector, there would be a separate body, the Parliamentary Commissioner for the Security Forces²⁵². In February of this year, the Assembly of the country, through a secret ballot, elected Ms. Remzije Zeqiraj Commissioner for the Security Forces for a

5-year mandate.

The Commissioner was welcomed²⁵³ at an introductory meeting by the Ombudsperson, while in the process of consolidating the Office of the Commissioner, the OI responded positively to the Commissioner’s invitation to contribute to the initial phase of capacity building for the implementation of the legally defined mandate, namely it participated in the workshop for the drafting of the Commissioner’s Rules of Procedure.²⁵⁴ The Rules of Procedure of the Parliamentary Commissioner for the KSF were approved by the Assembly and published in the Official Gazette in December 2024, thus paving the way for the organization of the Office of the Commissioner and the fulfilment of the duties and responsibilities defined by the relevant normative acts.

In the context of developments related to the KSF and the conditions of service for military personnel, the Ombudsperson has followed with concern the issues raised publicly regarding the food supply and quality of food, as well as the resignation of uniformed members from service in the Security Force. Although the Ombudsperson’s Institution has not been involved in the public discussion regarding these issues nor has it received any complaints specifically related to these aspects, it considers it important to draw the attention of the Ministry of Defense and the KSF to the need to maximize efforts for good governance and good administration of processes related to their scope and responsibilities, in order to enable the maintenance and strengthening of trust in the KSF.

The Ombudsperson participated²⁵⁵ in the International Conference of Ombuds Institutions for the Armed Forces²⁵⁶. This year’s conference, the 16th in a row²⁵⁷, was held in Berlin, Germany, as a joint organization of the German Parliamentary

252 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=61417>

253 <https://oik-rks.org/en/2024/05/10/the-ombudsperson-hosted-the-ksf-commissioner-in-a-meeting/>

254 Workshop held on July 1st and 2nd, 2024, in Prishtina

255 <https://oik-rks.org/en/2024/10/01/the-ombudsperson-participated-in-the-16th-international-conference-of-armed-forces-ombuds-institutions/>

256 <https://www.dcaf.ch/ombuds-institutions-armed-forces>

257 <https://euromil.org/16icoaf-meeting-in-berlin/>

Commissioner for the Armed Forces and DCAF - the Geneva Centre for Security Sector Governance. The conference is considered a platform for promoting democratic control of the armed forces and supports the exchange of experience and cooperation between Ombuds institutions that have an oversight mandate over the armed forces of the respective states. The main purpose of this year's Conference was to engage in dialogue and articulate future policies among ombuds to address the challenges arising from the growing tensions and insecurity around the world and the consequent increase in demands and challenges for military personnel. In the framework of the Conference's proceedings, it was inevitable to reflect on the lessons learned from previous such meetings and the experiences created. At the end of the event, its final declaration was issued, as a summary of good practices and key reflections discussed during the Conference's proceedings. The 17th Conference will be held in 2025, hosted by South Africa.

The Ombudsperson also participated in the meeting on the topic "The Role and Functions of NHRIs Operating in Armed Conflicts", a special meeting, in continuation of the proceedings of the Annual Meeting of the General Assembly of the European Network of NHRIs (ENNHRI)²⁵⁸. The meeting was designed for a selected group of representatives from 16 NHRI institutions. The focus of the meeting was to understand the challenges NHRI institutions face during active conflict situations, or in the pre- and post-conflict periods, and how to address them. The meeting also examined the role and importance of international standards applicable to NHRI institutions: the impact of international human rights law and international humanitarian law on the work of NHRI institutions in armed conflicts and their cooperation with other entities and institutions.²⁵⁹

The Ombudsperson also participated in the National Academy of Human Rights

Institutions (NHRI), which focused on strengthening the capacities of NHRIs to address security-related challenges by enabling NHRIs, through their mandate, to address issues that have a direct impact on the promotion and protection of human rights. The Academy was organized in Bratislava, Slovakia and the main topics addressed were: Raising awareness of key security issues, how they relate to human rights and democracy; using the broad mandate of NHRIs to address security and human rights challenges, and engaging regional mechanisms to address these challenges at the national level.

258 <https://ennhri.org/news-and-blog/ennhri-members-elect-new-governance-positions-at-general-assembly/>

259 <https://ennhri.org/news-and-blog/nhris-come-together-to-consider-their-role-and-functions-in-situations-of-armed-conflict/>

Human rights in terms of “transitional justice”

Transitional justice is a field of justice that deals with all measures taken by states in transition to seek accountability and address the consequences of war and violations of human rights and freedoms. Transitional justice aims to help a post-conflict society to provide justice for victims and their recognition, increase citizens' trust in state institutions, ensure respect for human rights, promote the rule of law, prevent future human rights violations, and foster reconciliation. There are four main mechanisms that enable the achievement of these objectives of Transitional Justice:

- The right to justice includes the right of victims to obtain justice through a fair and effective legal remedy. The right to justice also obliges states to investigate violations and prosecute those responsible for human rights violations and to take punitive action if guilt is established.
- The right to know includes the rights of victims and their families to learn the truth about what happened to them personally or to their family members and loved ones. This right is based on the inalienable right of society to know what circumstances led to the commission of crimes and violations so as to prevent their recurrence in the future. Furthermore, this right provides an obligation for the state to take measures, such as securing archives and other evidence, and preserving and maintaining collective memory.
- The right to reparation includes measures that the state is obliged to apply to victims, their families and communities in order to

contribute to a form of symbolic recognition of their sense of loss, which is necessary as part of healing from the traumas of war and to provide justice and compensation for the losses that have been caused.

- The right to guarantees of non-repetition implies the obligation of the State to ensure good governance and the rule of law so as to ensure that crimes that have occurred in the past are not repeated. Institutional reforms represent the process of reviewing and restructuring state institutions so that they respect human rights, uphold the rule of law and are accountable to the public.

The Ombudsperson during 2023 published the *Ex-Officio* Report No. 422/2021 regarding Transitional Justice and the implementation of its mechanisms²⁶⁰, in order to identify all initiatives, whether institutional or of the civil society, in the field of Transitional Justice and to analyze the implementation of these initiatives and, based on the analysis, to assess whether state institutions have done enough and fulfilled their obligation to realize human rights for their massive violations during the war in Kosovo.

With this report, the Ombudsperson has concluded that the institutions have not fulfilled their obligations towards the victims in providing justice for war crimes against humanity, on the scale of genocide, that were committed during the war in Kosovo. The Ombudsperson has also concluded that the state has not fulfilled its obligations towards the victims when it comes to collecting and documenting facts on war crimes. On the other hand, it is assessed that Kosovo has, to a large extent, fulfilled its obligations in providing material reparations to the victims and undertaking institutional reforms, with the aim of guaranteeing non-repetition. Legal and institutional initiatives have also been undertaken to implement the mechanisms of Transitional Justice, but these initiatives, not always being in harmony and coordination with each other, as such, have not yielded the desired results.

260 <https://oik-rks.org/en/2023/06/06/report-of-the-ombudsperson-ex-officio-no-422-2021-transitional-justice-and-implementation-of-its-mechanisms/>

Through this report, the Ombudsperson has addressed concrete recommendations to the responsible authorities for new policies and initiatives, as well as recommendations for improving the functioning of existing initiatives in the field of Transitional Justice, in improving the situation regarding the realization of victims' rights to justice and reparation, as well as the right to know and the guarantee of non-repetition.

On June 13, 2024, the Government of the Republic of Kosovo approved the Transitional Justice Strategy²⁶¹. The main principles guiding the Transitional Justice Strategy 2024-2034 and the Action Plan 2024-2026 are: Victim-centered approach, Comprehensive approach, Gender sensitivity, Compliance with international norms and standards, Integrity and impartiality, etc. The aim of this strategy is to enable social dialogue on the past, to ensure the necessary conditions for achieving justice for all victims, to ensure the implementation of a comprehensive, transparent process of material, symbolic and psycho-social support for all victims, etc. Also, within the framework of the strategic objectives, which include Transitional Justice mechanisms, different specific objectives have been foreseen for each strategic objective.

The Ombudsperson, during this reporting year, organized a roundtable discussion with the aim of marking the National Day for Missing Persons and discussing with relevant stakeholders the fate of missing persons and the recommendations of the Ombudsperson in the Report on Transitional Justice. During the roundtable, discussions were held with relevant stakeholders regarding the fate of missing persons as well as the measures that the state has taken regarding the crimes committed during the war in Kosovo and addressing the fate of missing persons, also presenting for discussion and addressing the current challenges of this process. During the roundtable, the Ombudsperson's Report on Transitional

Justice and its recommendations were briefly presented, while the Ombudsperson, in order to mark the National Day for Missing Persons, through a Declaration on Missing Persons²⁶², recalled the obligations of the state to guarantee the victims and families of missing persons the right to know the truth about the fate of their forcibly disappeared family members and to guarantee justice for the victims, so that war crimes do not remain unpunished. The Ombudsperson's Institution also emphasized that it will continue to be a strong voice in support of the requests of the families of missing persons, supporting each institutional initiative that contributes to the fulfillment of the obligations that the state has in relation to the mechanisms of transitional justice, and will continue to have close cooperation with civil society, which in many cases has been the only voice that has influenced the injustices against the victims to be brought to the attention of the institutions, reminding them of the obligations they have.

Survivors of sexual violence during the war in Kosovo

One of the most sensitive dimensions of transitional justice is also addressing reparation for victims of sexual violence during armed conflict or war. Sexual violence during war, as one of the most severe forms of violence, has left deep and traumatic consequences in the lives of survivors, including physical and psychological trauma and stigma in society.

The Amending and Supplementing of Law no. 04/L-054 on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of the Kosova Liberation Army, Sexual Violence Victims of the War, Civilian Victims and Their Families, in 2014 has paved the way for the commencement of the process of recognition and verification of the status of victims of sexual violence during the war in Kosovo. Meanwhile, the process began with the establishment of the Governmental Commission for the Recognition and

261 <https://kryeministri.rks-gov.net/wp-content/uploads/2024/06/STRATEGY-ON-TRANSITIONAL-JUSTICE-IN-REPUBLIC-OF-KOSOVO-2024-2034.pdf>

262 <https://oik-rks.org/en/2024/04/26/statement-of-the-ombudsperson-marking-the-national-day-for-missing-persons/>

Verification of the Status of Sexual Violence Victims of the Kosovo Liberation War (hereinafter the Commission), in April 2017.

The Ombudsperson in 2023 initiated *ex-officio* investigations²⁶³ into the assessment of respect for human rights and freedoms, respectively of victims, in the process of verification and recognition of their status. This investigation came as a result of complaints received by the OI and continuous concerns raised by survivors and non-governmental organizations, on the challenges and difficulties associated with the process of verification and recognition of the status of sexual violence victims of the war. The problems raised continuously were: procedural delays in the development of the procedure for verification and recognition of the victim's status; lack of justifications in the Commission's decisions and inadequate justifications; time limit for submitting applications for recognition of status; lack of free health services; prolongation of court procedures; difficulties in realizing benefits; the way the interview process is organized and the need to combat stigmatization in society.

On 22 October 2024, the Ombudsperson published the *ex-officio* Report no. 436/2023²⁶⁴ regarding the respect for human rights during the process of recognizing and verifying the status of sexual violence victims of the Kosovo liberation war and the obstacles to the realization of the benefits determined by law. The Ombudsperson, after analysing the issue and the legal framework in force, found that Regulation no. 22/2015 on Defining the Procedures for Recognition and Verification of the Status of Sexual Violence Victims During The Kosovo Liberation War has several legal gaps and fails to regulate in detail the procedure to be followed by the parties when applying for recognition of the status.

Such gaps consist of: failure to provide for a time limit for the development and completion of the administrative procedure, in the first instance and in the process of

reviewing the request; the need to clarify the legal terminology used regarding the legal remedies available to the parties in the procedure, as well as the lack of incorporation of the principle of two instances and administrative control in the procedure. Therefore, the Ombudsperson's Institution has recommended that the Government of the Republic of Kosovo undertake concrete actions with the aim of supplementing-amending the regulation in question, so as to set time limits and define the legal remedies available to the parties in the procedure, as well as to incorporate the principle of two instances, so that the same body does not decide in the process of reviewing the request.

The Ombudsperson's Institution has also found that the current legal framework in force does not provide for rehabilitation measures for victims, namely the provision of psychosocial services for survivors of sexual violence, and no free health services are provided at the primary, secondary and tertiary levels in public health institutions for this category of citizens, therefore he has recommended the Government to take action to amend 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 War, Civilian Victims and Their Families, so that these rights are also guaranteed for survivors.

Regarding the short time limit for submitting applications for recognition and verification of status, the Ombudsperson's Institution has recommended to the Government of Kosovo that the deadline for submitting applications for verification and recognition of status be not limited, taking into account the fact that statutes of limitations do not apply to war crimes. This will enable victims and survivors to begin the process of applying for recognition of status at any time, whenever the appropriate circumstances arise for them, be they family or social circumstances.

263 R. A. no. 436/2023

264 <https://oik-rks.org/en/2024/10/31/report-of-ombudsperson-ex-officio-no-436-2023-on-the-respect-for-human-rights-in-the-recognition-and-verification-process-of-victims-of-sexual-violence-during-the-kosovo-liberation-war-and-the-obst/>

On the other hand, the decisions of the Commission for the recognition or rejection of the status must also comply with the requirements of the Law on General Administrative Procedure, especially regarding the structure and mandatory elements of the administrative act. Therefore, the Government Commission was recommended that when drafting decisions, within the framework of preserving the confidentiality of the parties, the decisions contain all elements of reasoning, including the facts and evidence elaborated in the procedure, as provided for in Article 47 and 48 of Law No. 05/L-031 on General Administrative Procedure, so that the parties also have clear reasons for the rejection of their requests. At the same time, it recommended that the Commission, during the conduct of the procedure, respect the established legal deadlines and also pay special attention to the better organization of the process of interviewing the parties, so that victims are ensured the protection of their identity and avoid confrontation/meeting with other victims while waiting for the interview.

Since another finding from this report was the fact that the building where the Commission operates and interviews with parties are conducted is not accessible in terms of infrastructure, the Ombudsperson's Institution has submitted recommendations to the Ministry of Internal Affairs, so that these spaces are accessible to everyone, especially to persons with disabilities, and also that access is appropriate to protect the disclosure of the parties' identities when accessing/entering the building.

Although the law in force guarantees survivors the enjoyment of certain benefits, their realization has been impossible in the absence of providing survivors with identification cards, therefore the Ombudsperson's Institution has recommended the Ministry of Finance, Labor and Transfers to develop the relevant procedures for providing victims with identification cards, as foreseen in Article 37 of Regulation 22/2015. Also, in the recommendation addressed to the Kosovo

Judicial Council, it was requested that the treatment of cases initiated in court be done with priority.

On November 19, 2024, the Ombudsperson's Institution organized a roundtable²⁶⁵ discussion which presented the findings and recommendations arising from the published report regarding the respect for human rights during the process of recognizing and verifying the status of sexual violence victims during the Kosovo liberation war and the obstacles to the realization of the benefits defined by law. The President of Kosovo, who participated in this roundtable, among other things, emphasized the need to provide health support to victims; the need for an unlimited deadline for submitting applications for status recognition, as well as the need to address the prolonged processes in the courts in disputes initiated for status recognition. Meanwhile, the Minister of Justice, agreeing with the findings and recommendations contained in this report, expressed the commitment of the Government of Kosovo to address the needs of victims, speaking about the actions foreseen in the Transitional Justice Strategy for providing support to survivors.

265 <https://oik-rks.org/2024/11/19/u-prezantua-raporti-i-avokatit-te-popullit-per-viktimat-e-dhunes-seksuale/>

Digital Services, Artificial Intelligence, and Human Rights

The development of digital services continues to have a profound impact on our society, bringing extraordinary opportunities for improving the daily lives of citizens, in terms of social and economic development. However, such developments have raised concerns regarding the protection of human rights, due to the risks that digital services may pose in relation to the right to privacy, freedom of expression and equal access of citizens.

One of the positive steps in this regard is the adoption of the Kosovo Digital Agenda 2030 by the Government of Kosovo, as a strategic document aimed at developing the country towards a developed digital society, as well as the Kosovo Strategy for Information Technology (IT). Also, another positive step is the provision of online public services to citizens, through the state platform eKosova, which has continued to expand the public services and information it offers.

However, in the field of digital developments, respect for human rights is essential, and this requires a careful balance between opportunities and risks, as practiced by international standards. This approach is not included in the Kosovo Digital Agenda 2030, therefore, highlighting its importance, it is necessary to emphasize that the approach to human rights should be integrated into strategic documents for the development of digitalization in the country.

In this regard, the European Union has adopted a regulation called the Digital Services Act (DSA) whose purpose is to improve the security and accountability of digital services by creating a safer environment for users, including the protection of their fundamental rights. Therefore, it is important for the relevant authorities of the Republic of Kosovo to take appropriate and effective measures

to prevent the risks posed by digital services, in terms of human rights.

Similarly, the development of Artificial Intelligence (AI) has made major strides in recent years and continues to grow rapidly. The rapid development of AI has the potential to bring about major and transformative changes in many areas, with the aim of improving efficiency, productivity and creating new opportunities for individuals and societies. For the safe and ethical use of digital services and AI, the EU has focused on creating a legal and regulatory framework that protects citizens' rights and fosters innovation. One of the EU's key initiatives is the adoption of the *EU Artificial Intelligence Act*, which aims to ensure that AI is used in a safe, transparent and responsible manner while protecting human rights.

Also, the Council of Europe has taken a very important step by adopting the *Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law*. The fundamental principles that this convention provides are that within the framework of the activities of Artificial Intelligence systems, the following must be respected: Human dignity and individual autonomy; Equality and non-discrimination; Respect for privacy and protection of personal data; Transparency and oversight; etc.

Considering that the EU and the Council of Europe have established international standards for the protection of citizens from the risks of AI, from the perspective of fundamental rights, these principles should be integrated into the legal order of the Republic of Kosovo.

In general, human rights in the AI era are a critical and multidimensional issue, as technological developments directly affect the lives of individuals and societies in general. AI has the potential to support or threaten human rights, depending on how it is implemented and managed. In protecting human rights from the negative impacts of AI, the National Human Rights Institutions (NHRIs) and Equality Bodies such as the Ombudsperson's Institution have a crucial role. At the European level, these institutions

are continuously building their functional and professional capacities to prevent human rights violations by AI systems through promotion and education to protect rights based on complaints received individually or collectively, to protect against discrimination and to protect personal data from AI systems. The role of these institutions is defined in Article 77(1) of the EU Act on Artificial Intelligence.

The Ombudsperson's Institution of the Republic of Kosovo has been closely monitoring the periodic developments regarding AI as well as the discussions at the international level on the role of NHRIs and Equality Bodies in relation to the protection and promotion of human rights from the negative impact of artificial intelligence. The staff of the OI, engaged in this field, in the capacity of members of the ENNHRI and EQUINET working groups, have continuously followed the developments in this regard and good practices for advancing the work in the future.

During the reporting year, the Ombudsperson's Institution has opened own-initiative (*ex-officio*) investigations to research the impact of AI on fundamental human rights and freedoms in the Republic of Kosovo. The findings regarding this case will be published through a report, the main purpose of which is to analyse how the use of AI can affect the protection of fundamental human rights and freedoms, taking into account the risks that may arise from the use of AI technology.

On December 10, 2024, the Ombudsperson participated in the conference: "Human Rights in the Age of Artificial Intelligence" organized by the Information and Privacy Agency in cooperation with the Institute for Technology and Society. This conference discussed in general the impact of Artificial Intelligence on human rights, with particular emphasis on personal data and privacy. The conference was concluded by emphasizing the role of public institutions in adapting to modern technologies for transparent and accountable governance, the impact of Artificial Intelligence on digital rights and the

challenges related to misinformation and the risks of inaccurate data in AI systems. The need to integrate privacy principles from the early stages of technology development was also emphasized, as well as the importance of inter-institutional cooperation to raise society's awareness of the challenges and opportunities brought by AI.

Given that the field of Artificial Intelligence is a new innovation, and its impact on human rights is a phenomenon that has begun to be addressed in recent years, at this stage the OI has undertaken initiatives to increase the capacity of OI staff, to advance knowledge in this field with the aim of professional preparation for handling cases in the future.

Cases initiated in the Constitutional Court

The Ombudsperson's Institution, within the framework of the constitutional mandate, during the reporting year addressed the Constitutional Court in 5 cases and requested the assessment of the compatibility with the Constitution of the contested acts. The Ombudsperson carried out these actions after receiving individual complaints, as well as after opening cases *ex-officio*.

During the reporting year, the Ombudsperson's Institution sent to the Constitutional Court:

- Request for the assessment of the compatibility with the Constitution of Article 28 of Law No. 08/L-228 on General Elections in the Republic of Kosovo,
- Request for the assessment of the compatibility with the Constitution of Article 4 of Law No. 08/L-248 on Amending and Supplementing Law No. 04/L-131 on Pension Schemes Financed by the State,
- Request for the assessment of the compatibility with the Constitution of the Statute (GRK) 01/2023 of the Hospital and University Clinical Service of Kosova,
- Request for the assessment of the compatibility with the Constitution of Article 9 (paragraphs 5 and 7), Article 14, Article 16, Article 26, Article 79, paragraph 4, Article 89, paragraph 12, of the Law No. 08/L-257 on the Administration of Tax Procedures,
- Request for the assessment of the compatibility with the Constitution of Article 331 (paragraphs 2, 4, 5, 6 and 7), of the Customs and Excise Code No. 08/L-247.

The Ombudsperson, during the reporting

year, sent to the Constitutional Court three comments on cases initiated by other entities. The comments sent to the Constitutional Court are as follows:

- Comments of the Ombudsperson regarding Article 55 of Law No. 04/L-193 on the Bar, according to the notification of the Constitutional Court on the registration of the request KO 96/24, dated 3 May 2024.
- Comments of the Ombudsperson regarding Law No. 08/L-289 on the Independent Media Commission, according to the notification of the Constitutional Court on the registration and merger of the requests KO 152/24 and KO 158/24, dated 29 July 2024,
- Comments of the Ombudsperson regarding Law No. 08/L-249 on Amendment and Supplementation of Law No. 06/L-056 on the Kosovo Prosecutorial Council, according to the notification of the Constitutional Court regarding the registration and merger of requests KO 153/24 and KO 156/24, dated 26 July 2024.

Supervision of Legislation in compliance with human rights and international standards

The Ombudsperson, during the reporting year, has followed the legislative process of the Government of the Republic of Kosovo (Government) and the Assembly of the Republic of Kosovo (Assembly). In this regard, the Ombudsperson has noted that the Government has approved the legislative program²⁶⁶, through which it has planned the adoption of 113 draft laws, according to the deadlines set in the program, and their submission for approval to the Assembly.

The Ombudsperson has noted that during the reporting year, the Assembly has adopted 63 laws, while 45 draft laws remain in the review procedure²⁶⁷.

Among the laws with the greatest public focus was the adoption of Law No. 08/L-322 on the State Bureau for Verification and Confiscation of Unjustified Assets. This law was referred for assessment to the Constitutional Court, and the Ombudsperson sent his opinion in the form of comments on the matter in question.

The Assembly adopted Law No. 08/L-249 on Amending and Supplementing Law No. 06/L-056 on the Kosovo Prosecutorial Council. This law was referred for assessment to the Constitutional Court, and the Ombudsperson sent an opinion in the form of comments to the Constitutional Court, providing an opinion on the issues under review by the

Constitutional Court.

The Ombudsperson noted that during the reporting year, the Assembly adopted Law No. 08/L-289 on the Independent Media Commission. This law has been referred to the Constitutional Court, and the Ombudsperson has sent an opinion in the form of comments and has given an opinion regarding the matter under consideration by the Constitutional Court.

The Assembly of Kosovo has approved the Customs and Excise Code No. 08/L-247, which the Ombudsperson has referred for assessment to the Constitutional Court, because the latter has not taken into account the findings of the Constitutional Court expressed in the judgment KO 216/22 and KO 220/22, regarding the issue of middle and lower management positions, which have acquired the right before the entry into force of the contested law (Judgment KO 216/22 and KO 220/22 regarding the assessment of Law No. 08/L-197 on Public Officials).

The Assembly also approved Law No. 08/L-257 on the Administration of Tax Procedures, which the Ombudsperson referred for assessment to the Constitutional Court because, in addition to the issues raised by the Ombudsperson, the same did not take into account the findings of the Constitutional Court expressed in judgment KO 216/22 and KO 220/22, regarding the issue of middle and lower management positions, which were acquired before the entry into force of the contested law (Judgment KO 216/22 and KO 220/22 regarding the assessment of Law No. 08/L-197 on Public Officials).

266 The Legislative Program for 2024 was approved at the 186th meeting of the Government of the Republic of Kosovo, with Decision No. 01/186, dated 24.01.2024, supplemented and amended by Decision No. 17/198, dated 02.04.2024, and supplemented and amended by Decision No. 02/212 dated 10.07.2024;

267 Assembly of the Republic of Kosovo – Evidence of Laws - <https://www.kuvendikosoves.org/shq/projektligjet-dhe-ligjet/>



Ombudsperson's requests and comments sent to the Constitutional Court

Ombudsperson's requests and comments sent to the Constitutional Court

Request for assessment of the compliance with the Constitution of Article 28 of Law No. 08/L-228 on General Elections in the Republic of Kosovo

According to the Ombudsperson's assessment, Article 28 of Law No. 08/L-228 on General Elections in the Republic of Kosovo, which determines the gender quota for representation in elections, raises constitutional questions and, as such, should have its constitutionality assessed by the Constitutional Court.

The first element of the rule of law is legality, which, among other things, includes a transparent, accountable and democratic process for adopting the law. The Ombudsperson notes that the contested law was adopted in an accelerated procedure. Although the accelerated procedure for the adoption of laws is determined by the Rules of Procedure of the Assembly (Article 123), this deviation from the regular procedure for the adoption of the law has made it impossible for the Ombudsperson and interested parties to actively participate in providing any comments on gender equality issues.

The Ombudsperson assesses that the adoption of the contested law in an expedited procedure is not in accordance with the principles of the rule of law, namely transparency, while the definition of a gender quota of 30% in the contested law is not in accordance with the constitutional values in terms of gender equality and non-discrimination.

The definition of a quota (at least 30%) for each gender, superficially, does not represent unequal treatment in terms of gender; however, in practice, there have been no cases when political entities have submitted lists of candidates with 50% women and 50% men for certification. The establishment of the 30% criterion justifies unequal treatment because political entities meet the legal criterion to compete in elections by submitting a list of candidates with 30% women on the electoral lists, while the rest is left to their will; consequently in practice, women continue to remain underrepresented.

The Ombudsperson's Institution considers that the legal establishment of a quota (at least 30%) for each gender represents a kind of unjustified prejudice, considering that the gender ratio between the genders is almost 50% to 50%, with minor differences. The Ombudsperson's Institution relies on data from the *World Population Prospects for 2022*, according to which the global gender ratio is 50.3% for men and 49.7% for women²⁶⁸. Reference is also made to EUROSTAT data, according to which there are almost 5% more women than men in the European Union. On January 1, 2022, there were 228 million women and 218 million men in the EU. This corresponds to a ratio of 104.6 women per 100 men, which means that there were 4.6% more women than men.²⁶⁹ Meanwhile, according to data from the Kosovo Agency of Statistics from the 2011 Kosovo census, the gender ratio is 50.34% men and 49.66% women²⁷⁰. It is noted that the percentage trend between men and women is almost equal; therefore, the establishment of a quota of 30%, as was done in the repealed law and also in

²⁶⁸ <https://population.un.org/wpp/Download/Standard/MostUsed/>

²⁶⁹ <https://ec.europa.eu/eurostat/web/interactive-publications/demography-2023>

²⁷⁰ <https://ask.rks-gov.net/PopulationStats/PopulationByRegion>

the contested law, is contrary to equality before the law in practice and by law, from the aspect of gender equality.

Considering the definition in paragraph 1 of Article 28, which defines the minimum threshold of 30%, it is noted that this provision is contrary to the spirit of equality between the sexes and contrary to the Law on Gender Equality, Article 5, paragraph 1, sub-paragraph 1.3, which defines that:

“In order to prevent and eliminate gender discrimination and achieve gender equality, Republic of Kosovo Institutions which include bodies at all levels of legislative, executive, judicial and other public institutions shall be responsible to implement legislative and other measures including:

1.3. gender mainstreaming of all policies, documents and legislation;”

Considering that the Assembly of the Republic of Kosovo, during the review and adoption of the contested law, did not take into account the obligations arising from the Law on Gender Equality, as a special law regarding gender equality, it considers that in this case the constitutional provisions regarding equality before the law have been violated.

The Ombudsperson’s Institution draws attention to the fact that most of the lists of political entities that competed in the general elections of February 14, 2021, were represented by 30% women and 70% men,²⁷¹ where even then the legal criterion for the gender quota was that in the lists of political entities each gender be represented by no less than 30%. In practice, it is observed that women have been represented by 30% while men by 70%. Meanwhile, it has been observed that in almost all lists of candidates of political entities, every third candidate has been a woman, while the first two candidates have been men.

Such a legal definition of at least 30% (Article 28), according to the Ombudsperson’s Institution, does not promote equality before the law, while in practice it has resulted in preventing women from being present on electoral lists with equal participation with men.

The Ombudsperson’s Institution assesses that although the quota set out in the contested law does not represent a restriction of the right, its presentation as a minimum limit of participation in the specific case is not proportional and does not reflect gender equality, and as such is not in line with the principle of non-discrimination. Also, such a determination is contrary to the legitimate aim pursued to achieve gender equality, as required by the Constitution *“The Republic of Kosovo ensures gender equality as a fundamental value for the democratic development of the society, providing equal opportunities for both female and male participation in the political, economic, social, cultural and other areas of societal life.”* In addition, such a determination violates the essence of the guaranteed right, which in this case is the right to be elected, the right to participate and the right to equality before the law.

The Ombudsperson’s Institution requested the Constitutional Court to assess whether Article 28 of the contested Law is in accordance with Article 7, Article 24 and Article 45, paragraph 1 of the Constitution of the Republic of Kosovo.

271 <https://kqz-ks.org/wp-content/uploads/2021/03/5.Rezultatet-e-te-gjithe-kandidateve-sipas-subjekteve-renditja-si-ne-fletevotim-1.pdf>

Request for assessment of the constitutionality of Law No. 08/L-248 on Amending and Supplementing Law No. 04/L-131 on Pension Schemes Financed by the State

According to the Ombudsperson Institution's assessment, Law No. 08/L-248 on Amending and Supplementing Law No. 04/L-131 on Pension Schemes Financed by the State in Article 4 raises constitutional questions and, as such, should have its constitutionality assessed by the Constitutional Court.

The law in question stipulates as follows:

"After Article 8, legal provision 8/A shall be added to the Basic Law with the following text:

Article 8/A

Partial old-age contribution-payer pension

1. Persons who have contributed according to the Law on Pension and Disability Insurance No. 011-24/83 (Official Gazette of KSAK No. 26/83) before the date 01.01.1999 but they do not reach the retirement age of fifteen (15) years of contributions as a conditional period because they were dismissed from their jobs as a result of violent measures, can be qualified for the partial old age contribution-payer pension scheme according to the criteria and conditions defined in this Article.

2. The right for a partial old-age contribution-payer pension shall be realized by all persons who have Kosovo citizenship and who meet the following conditions:

2.1. have reached the age of sixty-five (65);

2.2. provide valid evidence on the payment of contributions according to the provisions of the Law on Pension and Disability Insurance No.011-24/83 (Official Gazette of KSAK no. 26/83) before 01.01.1999;

2.3. were dismissed from work after 01.01.1989 as a result of violent measures;

2.4. the sum of the period of contributions paid according to sub-paragraph 2.2. as well as the period from the date of violent dismissal from work under sub-paragraph 2.3., until 01.01.1999 jointly reach the level of fifteen (15) years.

3. The necessary documentation to meet the conditions of paragraph 2. of this Article shall be determined by a sub-legal act from the Minister.

4. The height of the partial contribution-payer pension amount for each level shall be determined in accordance with the procedure established by Article 13 of the Basic Law, based on the number of years of paid contributions according to sub-paragraph 2.2. of this Article."

The issues that the Ombudsperson's Institution raises in this case in the Constitutional Court, which relate to the constitutionality of the contested Law, are: Whether the contested Law has taken into account the findings of the Constitutional Court, expressed through Judgment no. KO 190/19, in terms of equality before the law; Whether the contested Law has taken into account the findings of the Constitutional Court, expressed through Judgment no. KO 190/19, in terms of the prohibition of discrimination, under Article 14 of the European Convention on Human Rights (ECHR); Whether the contested Law has taken into account the findings of the Constitutional Court, expressed through Judgment no. KO 190/19, in terms of the general prohibition of discrimination, under Article 1 of Protocol 12 to the ECHR.

The Constitutional Court, on January 16, 2023, issued Judgment KO 190/19, finding that paragraph 2 of Article 8 of Law No. 04/L-131 on Pension Schemes Financed by the State,

in connection with subparagraph 2.3 of paragraph 2 of Article 6 of Administrative Instruction No. 09/2015 on Categorization of Beneficiaries of Contribute Paying Pensions according to the Qualification Structure and Duration of Payment of Contributions-Pension Service, are repealed on July 15, 2023.

In this case, the Court ordered the Assembly and the Government to take the necessary actions to supplement and amend Law No. 04/L-131 on Pension Schemes Financed by the State, in accordance with the Constitution and this Judgment, no later than July 15, 2023.

Although the Assembly adopted the contested Law on July 27, 2023, in the opinion of the Ombudsperson's Institution, the Assembly of Kosovo did not take into account all the requests of the Constitutional Court issued in Judgment KO 190/19.

The Ombudsperson's Institution considers that maintaining the criterion of 15 years of contribution-paying experience continues to deny the realization of the right to citizens who have paid contributions, but who do not reach the criterion of 15 years. In this way, they are denied equal treatment before the law, as also determined in Judgment KO 190/19.

The Ombudsperson's Institution notes that the Constitutional Court in Judgment KO 190/19 referred to the arguments of the Ombudsperson's Institution given in the Report with Recommendations *ex-officio* 235/2018, regarding the limitation with the criterion of 15 years of work experience to benefit from the contributory pension scheme. The Ombudsperson's Institution, with regard to the contested Law, maintains the same position, assessing that the limitation with 15 years of work experience, determined by the contested Law, continues to produce a violation of equality before the law.

The 15-year work experience limitation, established by the contested Law, has an impact not only on contributory old-age pensions, but also on other inherited schemes under federal law, namely on family pensions inherited by the family members of the employee, who must also have had 15 years of contribution experience, in order for his/her family members to benefit from this pension scheme (Basic Law, Article 12, paragraph 2).

The Ombudsperson's Institution considers that the 15-year work experience limitation, established by Administrative Instruction (MLSW) No. 09/2015 on the Categorization of Beneficiaries of Contribute Paying Pensions according to the Qualification Structure and Duration of Payment of Contributions – Pension Experience, has been transferred to the contested Law, which in fact should have been completely removed from the normative acts. The imposition of this restriction in the contested Law constitutes a discriminatory practice and a violation of equality before the law.

Furthermore, the Ombudsperson's Institution emphasizes that the limitation of 15 years of contribution payment, as a condition for benefiting from a contributory pension, for a category of citizens is a denial of the right to a contributory pension of the age and, in addition to constituting a violation of equality before the law and discrimination, it also violates their dignity, which according to the Constitution should be the basis of all other human rights. This standard is defined in Article 23 of the Constitution, which states: "*Human dignity is inviolable and is the basis of all human rights and fundamental freedoms.*" (Report with recommendations *ex-officio* 235/2018).

What should be noted is the fact that the Kosovo authorities in 2007 had undertaken to categorize pensions according to the length of the contribution-paying period and qualification, through Government Decision 13/2007 and Administrative Instruction No. 11/2007, which dealt with the contribution-paying period in the Pension Fund, which it did not possess and which is still held by the Republic of Serbia. The inequality and violation of dignity consists in the fact that the state of Kosovo has undertaken to qualify all pensioners who have managed to contribute to this fund for a minimum of 15 years, as contribution-paying pensioners, while maintaining

the criteria of the federal law. While others, who, without their will, have not achieved the contribution-paying period of at least 15 years in the fund held by the Republic of Serbia, do not qualify as contribution-paying pensioners from the state of Kosovo. According to the logic, this can be interpreted in such a way that the state of Kosovo has voluntarily undertaken, even without having its own law in 2007, to pay pensions to all those who have contributed to the Pension Fund, which it does not have and which is maintained by the Republic of Serbia, while the others who were expelled from work as a result of the repressive measures of the Serbian state during the 90s, the state of Kosovo, since 2007, initially through a government decision, and in 2014 by law, has excluded from the pension scheme by not recognizing even one day of their work experience.

In conclusion, the Ombudsperson's Institution considers that the limitation set out in Article 4 of the contested Law leads to a constitutional violation, namely it does not avoid the difference in treatment between two groups of citizens who are in similar and/or analogous situations with regard to the scope of the contributory pension category and that this difference in treatment continues to be "determined by law."

The Ombudsperson's Institution considers that the contested Law does not carry the spirit of Judgment No. KO 190/19, concerning the principle of non-discrimination and equality before the law.

Request for assessment of the constitutionality of the Statute (GRK) No. 01/2023 of the Hospital and University Clinical Service of Kosova

The Statute (GRK) No. 01/2023 of the Hospital and University Clinical Service of Kosova in Article 11, paragraph 1, stipulates:

"1. General Hospitals shall, according to paragraph of Article 9 of this Statute, provide the following healthcare services:

- 1.1. General Surgery;*
- 1.2 Internal medicine;*
- 1.3 Paediatrician;*
- 1.4 Gynaecology and Obstetrics;*
- 1.5 Medical emergencies."*

For the assessment of the Ombudsperson's Institution, the name is of no importance for the review of the constitutionality of the contested act. What matters is that the act in question: (1) is a general act, applicable to state institutions in general, not only to a natural or legal person, and (2) is a legal act that emanates from the authority of the Government.

The Ombudsperson's Institution emphasizes that the contested act was approved by the Government of the Republic of Kosovo, with Decision No. 29/180, at the meeting held on 27 December 2023. The Ombudsperson's Institution further considers that the contested act, in terms of its content, is a normative act of a general character and with general effect.

The Constitutional Court in case KO 73/16 had declared admissible the request for the assessment of the constitutionality of Administrative Circular No. 01/2016, issued by the Ministry of Public Administration of the Republic of Kosovo, on January 21, 2016. The Constitutional Court, with this Judgment, assessed that:

"The application raises serious issues of fact and law which are of such complexity that their determination must depend on an examination of the merits. The application cannot,

therefore, be considered manifestly ill-founded within the meaning of Rule 36 (1) (d) of the Rules, nor any other grounds have been established for declaring it inadmissible (See, for example, the case of A and B v. Norway [Ge], applications nos. 24130/11 and 29758/11, Judgment of 25 November 2016, paragraph 55 and also see, mutatis mutandis, case no. KI132/15 Deçan Monastery, Judgment of the Constitutional Court of the Republic of Kosovo, of May 20, 2016)." (Paragraph 49).

As regards temporal jurisdiction, the Ombudsperson's Institution considers that the request in question is submitted within the temporal jurisdiction of this court: *"The request filed in accordance with Article 113, paragraph 2 of the Constitution shall be submitted [...] by the Ombudsperson's Institution [...] within a period of six (6) months after the entry into force of the contested act."* (Law on the Constitutional Court, Article 29, par. 1, and Article 30). The contested act entered into force on January 5, 2024, respectively on the day of its publication in the Official Gazette of the Republic of Kosovo, on 5 January 2024 (see the contested act, Article 33). Therefore, the request of the Ombudsperson's Institution is submitted within the six-month period, which is determined by the Law on the Constitutional Court.

Furthermore, the Ombudsperson's Institution, consulting international instruments, considers that the United Nations International Covenant on Economic, Social and Cultural Rights is among the main instruments that speak of socio-economic rights. However, the latter is not an instrument included in Article 22 of the Constitution. As for other international instruments, especially the European Convention on Human Rights (ECHR), the Ombudsperson's Institution emphasizes that the latter does not include the "Right to Health"; however, in a number of cases, the European Court of Human Rights has created an interpretation of such a right based on the right to life under Article 2 of the ECHR, the prohibition of torture under Article 3 of the ECHR, the right to respect for private and family life under Article 8 of the ECHR and Article 14 of the ECHR, which prohibits discrimination. Consequently, considering the connection between health and the aforementioned rights, the Ombudsperson's Institution considers that the review of the request by the Constitutional Court constitutes an important issue for human rights.

Such an initiative to challenge the act in the Constitutional Court also comes based on the complaint received by the Trade Union Health Federation of Kosovo and by psychiatrists of the general hospitals of Gjilan, Prizren, Gjakova and Peja, against the contested act. The complainants claim that the contested act, in Article 11, will result in the reduction of health services in general hospitals in the Republic of Kosovo. The complainants also claim that Article 11 of the contested act, in addition to having an impact on citizens who will be left without certain health services, will also have an impact on the healthcare staff and administrative employees, because with the reduction of those health services, many health employees will be left without jobs.

The Ombudsperson's Institution considers that the removal of some types of health services in general hospitals places citizens in an unequal position in the areas where general hospitals are located. In other words, citizens of the areas where general hospitals are located are denied access to health services, which consequently produces a situation of inequality in terms of use and access to health services.

The regulation of the types of health services provided in general hospitals must be in full compliance with the Law on Health, which in this sense is a basic law, and with the Law on Mental Health, which carry the spirit of Article 51 of the Constitution.

In the opinion of the Ombudsperson's Institution, the definition of health services must be made by law, or in the other case, the act that defines health services must completely convey the definition of the law. In the specific case, the contested act should have fully conveyed the spirit of Article 19 of the Law on Health and Article 12 of the Law on Mental Health; otherwise,

the provisions of Article 11 of the contested act conflict with Article 51, paragraph 1 of the Constitution.

The Ombudsperson's Institution assesses that the provisions of Article 11 of the contested act are not in accordance with Article 55, in conjunction with Article 51, paragraph 1, of the Constitution, because the amendments were made by an act that is not a law.

Request for Interim Measures

The Ombudsperson's Institution requested the Court to impose an interim measure for the immediate suspension of the contested provision, namely Article 11 of the Statute of the Hospital and University Clinical Service of Kosova, considering that in this case, *prima facie*, the conditions under Rule 55, paragraph 4, of the Rules of Procedure of the Constitutional Court have been met in order to recommend an interim measure:

“(a) the party seeking the interim measure has shown a prima facie case on the merits of the application and, if its admissibility has not yet been decided, a prima facie case on the admissibility of the application;

(b) the party seeking the interim measure has demonstrated that irreparable harm will be suffered if the interim measure is not granted; and

(c) the interim measure is in the public interest.”

These three conditions, for the Ombudsperson's assessment, have been met in this specific case.

Request for the assessment of the compatibility with the Constitution of Article 9 (paragraphs 5 and 7), Article 14, Article 16, Article 26, Article 79, paragraph 4, Article 89, paragraph 12, of Law No. 08/L-257 on the Administration of Tax Procedures

Law No. 08/L-257 on the Administration of Tax Procedures regulates the procedures for the administration of tax obligations in the Republic of Kosovo, which are within the scope of the Tax Administration of Kosovo (hereinafter: the Contested Law), as well as the principles of organization and functioning of the Tax Administration of Kosovo (hereinafter: TAK).

Through this request, the Ombudsperson of the Republic of Kosovo requests the assessment of the compliance with the Constitution of Article 9 (paragraphs 5 and 7), Article 14, Article 16, Article 26 (paragraph 1), Article 79 (paragraph 4), Article 89 (paragraphs 1, 7, 8 9,10, 11 and 12), Article 91 of the Contested Law.

The Ombudsperson has received a complaint from several TAK officials, who have expressed their dissatisfaction with the provisions of the contested Law, namely, they have claimed that Article 79, paragraph 4, violates their right to property, guaranteed by the Constitution. The complainants have also claimed that the provisions of Article 89 and Article 91 violate their rights guaranteed by the Constitution. Regarding this issue, the complainants have requested the Ombudsperson to refer the contested Law for assessment to the Constitutional Court.

Representatives of the business community in the Republic of Kosovo have also presented their dilemmas regarding several provisions of the contested Law. The dilemmas have been raised regarding the content of Articles 6, 9, 16 and 26, and it has been discussed whether the highlighted articles are in accordance with the Constitution.

According to the Ombudsperson's assessment, the contested Law is generally considered progressive, because it has raised the normative standard in some issues, however, the Ombudsperson considers it necessary to address some issues to the Constitutional Court

for an assessment of whether the above-mentioned articles are in accordance with the Constitution.

The period during which a taxpayer can go back to correct a self-declaration and submit a request for refund/credit, with the contested Law, has been shortened to 3 years, while with the previous law, this period was 6 years. Therefore, a taxpayer can amend a declaration that he has submitted within 3 years after the mandatory date for the tax declaration (Article 14) and can claim a refund/credit within 3 years from the date the tax was paid (Article 26). On the other hand, according to Article 16 of the contested Law, the Ombudsperson has observed that the time limit within which TAK has the right to make a tax assessment has not been changed. Both in the previous law and in the contested Law, the time limit for TAK to make a tax assessment is 6 years.

In this regard, the Ombudsperson considers that shortening the deadline for taxpayer businesses, while leaving the same deadline for TAK, places businesses in an unequal position vis-à-vis TAK, and at the same time places them in a disadvantageous position. Shortening the deadline will reduce the time within which those businesses can amend their actions and, at the same time, will make it more difficult for them to correct errors, for which the contested Law has left the possibility of correction.

The Ombudsperson's Institution, referring to the case-law of the ECHR, notes that in the case of *Dakir v. Belgium*, § 65. The ECHR reiterates that a general policy or measure which has disproportionate prejudicial effects on a group of individuals may be considered discriminatory even if it does not specifically target the group and does not have a discriminatory purpose. However, this is only the case if such a policy or measure does not have an "objective and reasonable" justification, that is to say if it does not pursue a "legitimate aim" or if there is no "reasonable relationship of proportionality" between the means employed and the aim sought to be achieved (see also *S.A.S. v. France*, § 161).

The contested Law completely excludes the possibility of initiating proceedings in the IOBCSK by TAK employees. Taking into account the provisions of the Law on Public Officials (Articles 6 and 27) and the Law on Independent Oversight Board for Civil Service of Kosovo (Article 2), the Ombudsperson's Institution considers that since TAK employees belong to the category of civil servants with a special status, they are subject to the general rules for the civil service.

In this regard, the Ombudsperson's Institution emphasizes that paragraph 12 of Article 89 of the contested Law, which instructs parties dissatisfied with the decision of the Complaints Commission to address the competent court, denies TAK employees the right to legal remedies, namely the use of legal remedies to initiate proceedings in the Independent Oversight Board for the Civil Service of Kosovo.

According to this definition, the Ombudsperson's Institution considers that TAK employees are treated differently from employees of other institutions, without any apparent reason or a visible legitimate purpose, and that consequently such definitions also conflict with Article 24 [Equality before the Law] of the Constitution. However, in this case the Ombudsperson's Institution has focused only on Article 32 [Right to Legal Remedies] of the Constitution.

The provisions of the contested Law do not clearly present a legitimate purpose, through which the activity of financial institutions and notaries in providing certain information to TAK would be justified. As a result of this ambiguity, the Ombudsperson's Institution considers that such actions may conflict with Article 36 [Right to Privacy] of the Constitution.

The Ombudsperson's Institution considers that in the present case, with the definition of Article 9 [Collection of information or evidence], paragraphs 5, 6 and 7, of the contested Law, in terms of legality and legitimate purpose, it is not sufficiently indicated whether the request for transactions is proportionate to the purpose it is intended to serve. Therefore, the TAK

request for access to transactions of all legal and natural persons, in principle, seems to have a legitimate purpose, but there must be a well-founded suspicion of evasion or misuse for such a request, and this can be justified for certain individual cases, but not to request “why” transactions.

Taking into account the provisions of the contested Law mentioned above, it considers that the obligation of financial institutions to submit to TAK information on all domestic and international transactions, as well as the obligation of notaries to submit to TAK information on all sales contracts by legal entities, natural business persons and natural non-business persons, without a specific legitimate purpose, are in conflict with Article 36 [Right to Privacy] of the Constitution.

Regarding this provision in the contested Law (Article 79, paragraph 4), the Ombudsperson’s Institution considers that neither the Government of the Republic of Kosovo nor the Assembly of the Republic of Kosovo have taken into account the findings and conclusions of the Constitutional Court expressed in Judgment KO 216/22 and KO 220/22, by which the compatibility with the Constitution of Law No. 08/L-197 on Public Officials was assessed. Also in relation to this issue, the Ombudsperson’s Institution considers that the provisions in paragraph 4 of Article 79 of the contested Law may not be in accordance with paragraphs 1 and 2 of Article 46 [Protection of Property] of the Constitution and considers it important for the Constitutional Court to assess this issue, whether the provision stated above is in compliance with Article 46, paragraphs 1 and 2.

Request for Interim Measures

The Ombudsperson’s Institution requested the Court to impose an interim measure for the immediate suspension of the contested provisions, considering that in this case, *prima facie*, the conditions under Rule 55, paragraph 4, of the Rules of Procedure of the Constitutional Court have been met in order to recommend an interim measure:

“(a) the party requesting interim measures has shown a prima facie case on the merits of the referral and, if admissibility has not yet been determined, a prima facie case on the admissibility of the referral;

(b) the party requesting interim measures has shown that it would suffer unrecoverable damages if the interim relief is not granted; and

(c) the interim measures are in the public interest.”

These three conditions, for the Ombudsperson’s Institution assessment, have been met in this specific case.

Firstly, the Ombudsperson’s Institution considers that the arguments presented in this request provide more than *prima facie* grounds for the repeal of the contested provisions, taking into account the fact that in Article 26, paragraph 3, after the expiry of the 3-year period, the taxpayer loses the opportunity and right to request reimbursement for excessive payments, while regarding Article 79, paragraph 4, in addition to the arguments presented by the Ombudsperson, the Constitutional Court has also decided on completely similar issues with Judgment KO 216/22 and KO 220/22.

Secondly, in the absence of the adoption of the interim measure, changes may be made according to the provisions of Article 26, paragraph 3, and Article 79, paragraph 4, of the contested Law, namely the right to request reimbursement may be lost due to excessive payments (Article 26, paragraph 3), and recruitment procedures may be initiated (Article 79, paragraph 4), and thus, those procedures may cause irreparable human rights consequences.

The Ombudsperson’s Institution considers that for the contested Law it is in the public interest

that the rule of law be functional and efficient until the Constitutional Court takes a stance regarding the contested provisions.

Request for the assessment of the compatibility with the Constitution of Article 331 (paragraphs 2, 4, 5, 6 and 7), of the Customs and Excise Code No. 08/L-247

Code No. 08/L-247 on Customs and Excise establishes the general rules and procedures applicable to goods entering or leaving the customs territory of the Republic of Kosovo. Among other things, the contested Code also establishes provisions regulating employment relations for Customs employees (Chapter VII of the Code).

The issues that the Ombudsperson raises before the Constitutional Court, which relate to the constitutionality of the contested code, are as follows: Whether Article 331, paragraphs 2, 4, 5, 6 and 7, of the contested Code is in compliance with Article 7 [Values], and Article 46 [Protection of Property] of the Constitution, and whether it has taken into account the findings of the Constitutional Court expressed through the Judgment in cases no. KO 216/22 and KO 220/22, regarding the appointment and mandate of management positions in Kosovo Customs.

The Ombudsperson emphasizes that the content of Article 331 of the contested Code, for the positions of *Directors of Directorates; Directors of Central Departments; Directors of Regional Departments*, in Kosovo Customs, according to which the positions mentioned above are moved from employees with an indefinite term to employees with a definite term, violates legal certainty and legitimate and reasonable expectations, and the rights and interests already acquired, according to the principle of “acquired right”, due to the fact that the persons appointed to these positions with an employment contract with an indefinite period of time, get their legitimate expectations violated and this consequently affects their right to property, guaranteed by the Constitution. Therefore, employees in these positions, since the establishment of the employment relationship, have had their expectation that the employment relationship is for an indefinite period.

The concept of legitimate and reasonable expectations in the protection of subjective rights is a comprehensive concept of interpretation in international case law. According to the ECHR (*see the cases of Kopecky v. Slovakia, judgment of 28 September 2004, §§ 45-52; Gratzinger and Gratzingerova v. the Czech Republic (dec.)*, no. 39794/98, § 73, ECHR 2002-VII), the “legitimate expectation” must be of a concrete nature and must be based on legal provisions and legal acts. In the present case, the legitimate expectation of employees in management positions, for the realization of rights arising from the employment relationship, is based on the right acquired from the provisions of the previous Customs Code and the legislation in force.

Regarding the definition in the contested Code (Article 79, paragraph 4), the Ombudsperson considers that neither the Government of the Republic of Kosovo nor the Assembly of the Republic of Kosovo have taken into account the findings and conclusions of the Constitutional Court expressed in Judgment KO 216/22 and KO 220/22, which assessed the compliance with the Constitution of Law No. 08/L-197 on Public Officials, regarding the mandate of middle management and low management positions.

The Constitutional Court has clearly stated that Article 46 [Appointment and mandate of lower and middle management positions] of Law No. 08/L-197 on Public Officials does not apply to, or in other words, does not affect the rights of public officials, rights that were acquired before the entry into force of this law. According to this determination, it is noted that this regulation applies only to positions that are created after the entry into force of this law (Law on Public Officials), and that in the specific case, Article 331 of the contested Code should apply only to

positions that are established after the entry into force of the law, but not to positions whose employment relationship was established before the entry into force of the contested Code.

The Ombudsperson notes that Article 331 of the contested Code is similar to paragraph 2 of Article 99 of Law No. 08/L-197 on Public Officials, which paragraph is repealed by Judgment KO 216/22 and KO 220/22 (which is now considered a case adjudicated by the Constitutional Court), due to the finding that the paragraph in question is not in compliance with paragraphs 1 and 2 of Article 46 [Right to Property] of the Constitution.

Taking into account the findings of the Constitutional Court, expressed in Judgment KO 216/22 and KO 220/22, and also taking into account the provisions of the Constitution in Article 116 [Legal Effect of Decisions], paragraph 1, considers that the Government and the Assembly should have taken into account the findings of the Constitutional Court. The Ombudsperson's Institution considers that the provisions in Article 331 of the contested Code may not be in accordance with paragraphs 1 and 2 of Article 46 [Protection of Property] of the Constitution and considers it important for the Constitutional Court to assess this issue, whether the above-mentioned provision is in accordance with Article 46, paragraphs 1 and 2 of the Constitution.

Request for Interim Measures

The Ombudsperson's Institution requested the Court to impose an interim measure for the immediate suspension of the contested provisions, considering that in this case, *prima facie*, the conditions under Rule 55, paragraph 4, of the Rules of Procedure of the Constitutional Court have been met in order to recommend an interim measure:

“(a) the party requesting interim measures has shown a prima facie case on the merits of the referral and, if admissibility has not yet been determined, a prima facie case on the admissibility of the referral;

(b) the party requesting interim measures has shown that it would suffer unrecoverable damages if the interim relief is not granted; and

(c) the interim measures are in the public interest.”

In this case, all three of these conditions have been met and, based on this, the Ombudsperson requested the Constitutional Court to assess whether Article 331, paragraphs 2, 4, 5, 6 and 7 of the contested Code has taken into account the findings of the Constitutional Court expressed through the Judgment in cases no. KO 216/22 and KO 220/22, regarding the appointment and mandate of management positions in Kosovo Customs, as well as whether it is in compliance with Article 7 [Values] and Article 46 [Protection of Property] and Article 116 [Legal Effect of Decisions], paragraph 1 of the Constitution.

Comments of the Ombudsperson regarding Article 55 of Law No. 04/L-193 on the Bar, according to the notification of the Constitutional Court on the registration of the request KO 96/24, dated 3 May 2024

The Ombudsperson, on May 3, 2024, received from the Constitutional Court a notice for the registration of the request KO 96/24. Through this notice, interested parties were given the opportunity to provide their comments regarding Article 55 of the Law No. 04/L-193 on the Bar, until May 17, 2024.

The Ombudsperson has analysed the Constitution of the Republic of Kosovo, the European Convention on Human Rights and the Law No. 04/L-193 on the Bar (hereinafter referred to as the Law on the Bar), respectively Article 55 of this law, as well as the request of the Supreme Court, addressed to the Constitutional Court of the Republic of Kosovo.

Article 55 [Appeals in Competent Court] of the Law on the Bar defines: “*Against second instance respectively final decision imposing disciplinary measure – loss of right to practice bar from six (6) months to five (5) years, loss of right to practice bar from five (5) years to ten (10) years or permanent loss of right to practice bar or removal from the Register of law interns from six (6) months to three (3) years, and permanent removal from the Register of law interns, can be open administrative dispute to the competent court*”.

Regarding this issue, the Ombudsperson considers that the content of Article 55 of the Law on the Bar prevents lawyers from using legal remedies in any case where they claim that their rights have been violated by a final decision according to the provisions of this law.

In this regard, the Ombudsperson considers that the constitutional right to use legal remedies cannot be limited in the form as established in Article 55 of the Law on the Bar, because it makes it impossible for the parties to exercise the right guaranteed by the Constitution to use legal remedies. Furthermore, the Ombudsperson emphasizes that this right should be easily accessible and feasible for lawyers when they consider that their rights have been violated by a final decision.

The Ombudsperson does not observe any legitimate purpose, established in Article 55 of the Law on the Bar, according to which lawyers could be limited in their ability to initiate administrative conflict, in cases where they consider that their rights have been violated by a final act, according to the provisions of the Law on the Bar.

The Ombudsperson draws attention to the ECHR, the spirit of which recognizes the right of every person to have his case heard by an independent and impartial court. In this regard, the Ombudsperson emphasizes that the spirit of Article 55 of the Law on the Bar should not contain any restriction, according to which it would be impossible for lawyers to have their cases examined by the court, when they consider that their rights have been violated by a final decision.

The Ombudsperson, based on all that was emphasized above, assesses that the current content of Article 55 of the Law on the Bar does not enable lawyers to use legal remedies in every case when they consider that their rights have been violated by a final decision, and consequently denies them the right to judicial protection of rights as well as the right to a fair and impartial trial.

For this reason, the Ombudsperson considers it very important that the Constitutional Court assess whether Article 55 of the Law on the Bar is in accordance with the Constitution of the Republic of Kosovo, namely whether it is in accordance with Article 31 [The Right to a Fair and Impartial Trial], Article 32 [The Right to Legal Remedies], Article 54 [Judicial Protection of Rights].

Comments of the Ombudsperson regarding Law No. 08/L-249 Amending and Supplementing Law No. 06/L-056 on Kosovo Prosecutorial Council, according to the notification of the Constitutional Court regarding the registration and merger of requests KO 153/24 and KO 156/24, dated 26 July 2024

The Ombudsperson from the Constitutional Court received the notice for the registration and merger of the requests for cases KO 153/24 and KO 156/24. Through this notice, interested parties have been able to provide their comments regarding the Law No. 08/L-249 Amending and Supplementing Law 06/L-056 on Kosovo Prosecutorial Council (hereinafter: the new Law on the KPC), until August 9, 2024.

The Ombudsperson notes that in the new Law on the KPC, the quorum threshold of 5 out of 7 members depends on one of the non-prosecutor members. In situations of continuous non-participation of non-prosecutor members, this could result in the dead block of the work of the Council, taking into account the direct responsibility and role of the non-prosecutor member. Therefore, the Ombudsperson considers that this would undermine the independent

functioning of the KPC. Furthermore, the Ombudsperson considers that the absence of any member of the Council, resulting in the lack of a quorum of 5 members, affects the independent functioning of the Council.

The *check and balance* is important, however, the KPC is an independent constitutional institution and the quorum with 5 out of 7 members of the Council violates the constitutional guarantees set out in Article 110 of the Constitution. Furthermore, the definition of the quorum for decisions on disciplinary matters, in cases of continuous non-participation of a member in the meetings of the Council, with at least 4 members and if decisions are taken with the votes of four (4) members, in addition to violating the independence of the KPC, this may also cause the dead block of processes in the prosecutorial system. In terms of violating the independence of the Council, the Ombudsperson notes that taking into account the constitutional guarantee that the KPC is fully independent in the performance of its functions, he considers that the quorum for disciplinary decisions (with at least 4 members and that decisions are taken with the votes of four (4) members) may result in the dead block of processes and cause the malfunctioning of the KPC.

In the assessment of the Ombudsperson, referring to the text of the contested act, namely the text “[...] *the quorum of the Council, in these cases and other cases following the continuous non-participation of some members of the Council* [...]”, in itself brings about ambiguity in the norm. Such a wording makes the norm unclear, because it raises doubts as to which members of the Council are subject to such a rule. In principle, the norm should apply to each member of the Council, without distinction, but the wording “of some members of the Council”, may result in ambiguity and problems in the practical implementation of the norm mentioned above.

Even the Venice Commission, in its opinion issued in March 2022, considered that there is a risk that such a form of voting could result in deadlocks (paragraph 15 of the Venice Commission Opinion on the Revised Draft Amendments to the Law on the KPC, March 23, 2022). The Venice Commission further advised that in such cases an anti-deadlock alternative be found, so that this issue does not block the functioning of the KPC.

The Ombudsperson considers that in the cases highlighted above there is a real risk that such a norm setting would produce inefficiency of the Council in the general quorum, established in Article 13, as well as the quorum for disciplinary matters defined in Article 16.

Comments of the Ombudsperson regarding Law No. 08/L-289 on the Independent Media Commission, according to the notice of the Constitutional Court on the registration and merger of the requests KO 152/24 and KO 158/24, dated 29 July 2024

The Ombudsperson received from the Constitutional Court the notice for the registration and merger of the requests KO 152/24 and KO 158/24. Through this notice, the interested parties have been able to provide their comments regarding the Law No. 08/L-289 on the Independent Media Commission (hereinafter: the contested Law).

The Ombudsperson assesses that the issue of freedom of the media and freedom of expression are closely linked, and considering this fact, considers it very important for the Constitutional Court to assess the contested issues raised in cases KO 152/24 and KO 158/24, regarding the law mentioned above.

The contested law has been analysed in the spirit of respecting the freedom of the media under Article 42 of the Constitution and the freedom of expression under Article 40 of the Constitution, as well as in the spirit of Chapter XII [Independent Institutions] of the Constitution of the Republic of Kosovo.

The Ombudsperson does not dispute the competence of the Assembly to dismiss the

Chairperson or member of the IMC, because as the Constitutional Court has determined in some of its cases, the Assembly has supervisory competence over public institutions, however, in the specific case, attention must be paid to dismissal procedures, namely the majority required by the Assembly for the dismissal of the Chairperson or member of the IMC, as well as the circumstances for which the dismissal of the Chairperson or member of the IMC may be requested.

The Ombudsperson recalls that the Constitutional Court in case KO134/21 paragraph 114, *inter alia*, has determined that “[...] the exercise of the supervisory role of the Assembly is of special importance, especially in the field of media freedom considering its role and importance in a democratic society. [...] The case law of the ECtHR establishes not only the obligation of the state not to interfere with the values of freedom and pluralism of the media and the freedom of expression, but also the positive obligations of the state [...]”.

In this regard, the Ombudsperson, taking into account the principles established for the freedom of media, which guarantees media freedom and pluralism, and freedom of expression as a freedom that includes the right to express, disseminate and receive information, opinions and other messages, without hindrance from anyone, in connection with the IMC as an independent constitutional institution that regulates the spectrum of broadcasting frequencies in the Republic of Kosovo, licenses public and private broadcasters, determines and implements broadcasting policy and exercises other powers defined by law, considers that the Constitutional Court’s assessment is necessary regarding the compliance of Article 18 of the contested law, which deals with the issue of the dismissal procedure and the circumstances for which the Chairperson or member of the IMC is dismissed.

The Ombudsperson considers that the possibility of dismissing the Chairperson or member of the IMC by a simple majority of the Assembly, apparently, reveals a much easier possibility of political influence on the Chairperson or member of the IMC, therefore in the specific case the Ombudsperson emphasizes that their dismissal by a simple majority may have a direct impact on the independent functioning of the Independent Media Commission.

Establishing the manner of dismissal of the Chairperson or member of the IMC, with a higher majority than the simple majority, would bring greater security to the Chairperson or member of the IMC, in the exercise of their functions. However, dismissal by 2/3 of all deputies should not be seen as a guarantee, through which the Chairperson or member of the IMC, can abuse the duties and responsibilities they are charged with.

In the opinion of the Ombudsperson, the dismissal of the Chairperson and members of the IMC by a 2/3 majority would be the safest solution for the independent functioning of the IMC.

Regarding the issue of the circumstances for which the dismissal of a member of the IMC may be requested, it may be because he/she *“is professionally incapable – proves in continuity to fail in performance of duties as member of the IMC”*. The Ombudsperson considers that the failure to specify the circumstances under which the Chairperson of the IMC may be dismissed, while expressly specifying the circumstances under which the dismissal of a member of the IMC may be requested, treats the Chairman and the members of the IMC unequally, and may therefore conflict with Article 24 [Equality before the Law] of the Constitution. The failure to specify other circumstances under which the dismissal of the Chairperson of the IMC may be requested, in practice may result in the possibility of abuse of the Chairperson’s office, because the contested law, apart from sub-paragraph 3.1 (professional incapacity), does not provide for any other circumstance under which the Chairperson of the IMC may be dismissed. In such cases, the Ombudsperson considers that there should be a definition of the norm for each independent institution, through which the dismissal of leaders or members can be requested, because such definitions increase the responsibility of leaders and members of independent constitutional institutions, in carrying out the duties and responsibilities

determined by the Constitution and law.


The introduction of paragraph 3, subparagraph 3.1, according to which the dismissal of a member of the IMC may be requested because he or she is professionally incapable – proves in continuity to fail in performance of duties of the Chairperson and member of the IMC, in practice brings about ambiguity and inaccuracy. The Ombudsperson, referring to paragraph 3, Article 18, has noted that in paragraph 3, it is expressly stated that the dismissal of a member of the IMC is made as a result of these circumstances, while in paragraph 3.1, it is stated that he/she has proven and continuously failed to fulfil the duties of the Chairperson and member of the IMC. According to this formulation, it becomes unclear whether paragraph 3, subparagraph 3.1 also applies to the Chairperson of the IMC or only to the member, as named in paragraph 3.

The legal uncertainty of the members of the IMC also results from the fact that the norm has not clarified which institution or body assesses the professional incompetence in which the members of the IMC fail to perform. Considering the fact that the request for dismissal is made by the parliamentary committee, it is risky to leave the assessment of professional incompetence to the discretion of the parliamentary committee, because such a norm would increase the risk of political influence on the independent functioning of the IMC.

The Ombudsperson considers that leaving it to the discretion of the parliamentary committee for the oversight of the work of the IMC, namely (i) the assessment of professional incapacity, failure to perform duties for an uninterrupted period of more than three (3) months, without approval from the IMC, (ii) participation in a decision-making process that is contrary to the interests of the IMC, the public, or one of the social groups that the IMC must provide support or protection to by this law, or (iii) loss of trust by the supervisory body due to violation of integrity, biased positions in favour of a party licensed or registered with the IMC, places the chairperson and members of the IMC in a situation of legal uncertainty, because the general legal provisions do not clarify in which cases any of the circumstances listed above, namely those listed in Article 18, paragraph 3, can be considered fulfilled. Furthermore, they contradict the principle of independence and non-interference in the decision-making of the IMC, which is one of the prerequisites for such institutions provided for in Chapter XII of the Constitution.

The circumstances under which the chairperson or member of the IMC may be dismissed should be expressly listed, so that legal certainty and the determinability of the norm are not violated for the chairperson and members of the IMC, and also to avoid the possibility of any political or other interference, which could negatively affect the independent functioning of the IMC.

Given the circumstances highlighted above, the Ombudsperson considers it very important for the Constitutional Court to assess whether Article 18, paragraphs 2 and 3, are in accordance with Article 7 [Values], Article 24 [Equality before the Law], Article 141 [Independent Media Commission], of the Constitution of the Republic of Kosovo.

The background is a solid blue color with several large, curved, overlapping shapes in different shades of blue, creating a dynamic, abstract design. The shapes are primarily located in the upper half of the image, with some extending towards the bottom.

**Reports drafted
during 2024
related to
constitutional
rights**

Reports drafted during 2024 related to constitutional rights

Human Dignity and Equality Before the Law

Implementation of special measures provided for in Article 6 of the Law on Gender Equality, by legislative, executive and judicial bodies, at all levels, and by other public institutions in Kosovo

In its capacity as an equality body, the Ombudsperson's Institution, through this report, aims to reflect the situation regarding gender representation in the institutions of the Republic of Kosovo, with particular emphasis on senior management and decision-making positions, as well as to assess the implementation of Article 6 [Special Measures] of the Law on Gender Equality by the institutions of the Republic of Kosovo, in the context of obligations related to the undertaking of special measures, with the aim of addressing inequality between men and women.

In order to assess the efforts to achieve gender equality, in the context of equal representation of women and men within public institutions, the Ombudsperson has sent a questionnaire to all public authorities - part of the legislative, executive and judicial branches of government, and the collection, processing and analysis of the data reflected in this report were carried out with the support of the USAID Commercial Justice Program.

The aim of the questionnaire distributed to the institutions was to learn the factual situation regarding gender representation at different levels of the institutional hierarchy, and to undertake special measures in order to accelerate the equal representation between men and women in the institutions of the Republic of Kosovo.

Only 50 public authorities responded to the questionnaire, including institutions at the central and local levels. It is worth noting that the figures reported for the middle management level, for the purpose of this report, also include the figures reported for the lower management level. Meanwhile, the figures reported for the support staff include professional and administrative staff.

The Law on Gender Equality is one of the laws within the package of human rights laws, which, together with the Law on the Ombudsperson and the Law on Protection from Discrimination, were adopted in 2015. The entry into force of these three laws has simultaneously resulted in the advancement of the legal framework for human rights in the Republic of Kosovo. Initially, by offering greater legal guarantees for citizens and other subjects, in the context of the protection of their fundamental rights and freedoms, but at the same time by enabling institutions a broader scope of action, in the context of their efforts to combat gender discrimination and consequently achieve de facto equality between men and women in all spheres of life.

The Gender Equality Law precisely defines: “(...) *other public institutions shall be obliged to adopt and implement special measures to increase representation of underrepresented gender, until equal representation of women and men according to this Law is achieved*” emphasizing that “*Equal gender representation in all legislative, executive and judiciary bodies and other public institutions is achieved when ensured a minimum representation of fifty percent (50%) for each gender, including their governing and decision-making bodies.*”

According to the data and figures collected and analysed for the purposes of this report, if taken as a sample to reflect the general trend of gender (in)equality within institutions of all levels and powers in the Republic of Kosovo, the statistics show a lower representation

of women than men. Divided into three main levels of institutional hierarchies – senior management level, middle management level, and support staff, the figures show an unequal gender representation.

On average, senior management positions continue to be significantly more represented by men with 77.1%, and only 22.9% by women. Meanwhile, at the other two levels, based on the data, women constitute about 31% of them, and men about 69%. Consequently, it can be concluded that the state administration is more dominated by the male gender, and even more so in high decision-making positions. According to the analysis of the data received, it is noted that even among ethnic minorities, women are underrepresented compared to men.

The most frequent responses encountered during the analysis of the institutions' responses, to the question about undertaking special measures, were responses such as *“the staff recruitment selection procedures are carried out based on public announcements, based on the legal procedures in force, where everyone has the right to compete without distinction and with equal rights”*. Although this confirms that the institutions are implementing their relevant legal obligations for recruitment procedures, it also confirms the lack of knowledge in relation to the concept of justified different treatment.

Consequently, the concept of justified differential treatment, as a legal and constitutional concept, as well as special measures, otherwise known as affirmative action, seem to be largely unknown to most institutions. While they continue to be misunderstood, they risk remaining unimplemented. Consequently, such situations contribute to the deepening of the perception that the Republic of Kosovo has an advanced legal framework, but which fails to be implemented in practice.

The Law on Gender Equality, meanwhile, enjoys the status of *lex specialis* and as such should be treated for gender equality issues, having priority in implementation in relation to the general legislation regulating recruitment procedures within state institutions.

Institutions or bodies at all levels, which draft and adopt public policies, are obliged to transpose and reflect the principles of the Law on Gender Equality within the framework of new legal initiatives, or even within the framework of sub-legal acts, thus addressing gender inequalities in the relevant fields.

Through this report, the Ombudsperson recommends to the Assembly to harmonize the Rules of Procedure and the procedures for selecting senior management positions within independent institutions and independent agencies, with the Law on Gender Equality, as well as to ensure the establishment of a standard procedure for the Commission on Human Rights, Gender Equality, Missing Persons and Petitions in order to review the integration of the gender perspective in legal initiatives submitted to the Assembly.

It recommended to the Government of the Republic of Kosovo to ensure that the relevant legislation for state administration employees is in line with the Law on Gender Equality; To address the gender gap in senior management positions by issuing special measures until achieving equal representation of men and women in decision-making positions; To draft a circular for Ministries and other subordinate institutions, regarding the addressing of gender inequality at different levels within internal and subordinate bodies, by taking special measures; To ensure reporting of special measures taken by central and local government institutions to the Agency for Gender Equality.

The Ministry of Local Government Administration was recommended to draft a circular letter for the local level, regarding addressing gender inequality at different levels within the relevant local bodies, through the undertaking of special measures.

The Agency for Gender Equality was recommended to instruct gender equality officers at central and local levels in order to organize information sessions/trainings for relevant

institutions, regarding the obligations of institutions stemming from the Law on Gender Equality, including special measures.

The Judicial Council was recommended to ensure the inclusion of legal guarantees for equal gender representation within the internal regulatory framework, in accordance with the Law on Gender Equality; To ensure the recruitment or appointment of an officer for gender equality issues; To ensure that all data collected, reported and analysed by all courts, including the Commercial Court, are disaggregated by gender.

The Prosecutorial Council was recommended to ensure the implementation of legal guarantees for equal gender representation within the internal regulatory framework, in accordance with the Law on Gender Equality; To ensure the recruitment/appointment of an officer for gender equality issues.

Respecting human rights during the process of recognizing and verifying the status of sexual violence victims during the Kosovo liberation war and obstacles to the realization of benefits determined by law

The report was drafted on the basis of an investigation initiated *ex-officio*, based on information that the Ombudsperson has continuously received regarding the challenges and difficulties faced by sexual violence victims during the Kosovo liberation war, in the process of verifying and recognizing the status of a victim of sexual violence, as well as the obstacles to the realization of benefits that belong to this category on the basis of the law, having initiated investigations *ex-officio*.

The report aims to analyse the legal basis that regulates the procedures that must be followed in the process of recognizing and verifying the status of a sexual violence victim during the war in Kosovo, as well as to address to the responsible and competent bodies the need to take actions with the aim of improving and regulating in more detail the procedure and better organizing the process of verifying and recognizing the status of the victim, in order to ensure the protection and respect of the fundamental rights of the persons in the procedure. The report also aims to draw the attention of the responsible institutions to the need to take actions in order to enable victims whose status has been recognized to enjoy the benefits determined by law, equally with other categories provided for in the law and without procedural obstacles.

The report focuses on several key points that, in the assessment of the Ombudsperson, require increased attention from the authorities:

Timelines applicable to the process of verification and recognition of the status of a sexual violence victim during the war

Although Regulation 22/2015 establishes the procedures to be followed by the parties and the Commission in the process of recognizing and verifying the victim's status, the same regulation does not establish the time limit within which the Commission must issue a decision to recognize or reject the status of a victim of sexual violence.

The Ombudsperson assesses that Regulation No. 22/2015 has a legal gap regarding the time limit for issuing the Commission's decision on the recognition or rejection of status. The lack of specification of the time limit leaves the possibility of legal uncertainty for the parties to the procedure in terms of orientation on the deadlines for the development and completion of the administrative procedure and the possibility of using legal remedies, since in some cases the regulation sets the deadlines and in some other cases the Commission refers to the LGAP. In addition, it is worth noting that the provisions of the Law on General Administrative Procedure, a law that entered into force in 2016, set a deadline of 45 days for the completion of the administrative procedure (with the possibility of extension for the circumstances highlighted above). Meanwhile, the 2018 Guide for the process of recognizing

and verifying the status of sexual violence victims during the Kosovo Liberation War sets a 30-day deadline for the Commission's decision-making.

Legal remedies available to the parties during the proceedings

Regulation No. 22/2015, in Article 30, paragraph 3, provides for the possibility of reviewing the request after the conclusion of the procedure with a decision to refuse recognition of the status, stipulating as follows: *"In the event of refusal, the party must be instructed on the possibility of reviewing the request and has the right to appeal the decision within 15 days"*.

According to the Ombudsperson, Article 30, paragraph 3, of the Regulation may create confusion in terms of the legal terminology used regarding the legal remedy available to the parties, because on the one hand it provides for the review of the request, while on the other hand it emphasizes the 15-day deadline for the possibility of filing an appeal.

The Ombudsperson notes that Article 31 of Regulation No. 22/2015 stipulates that the review of the applicant's request is carried out by the Commission, but does not clarify the composition of the Commission to act as a first instance and as a second instance, therefore it does not determine whether the Commission, in the case of the review of the request, acts in the same composition as it acted and decided in the previous decision-making process or acts differently.

During the analysis of the case, it was found that Regulation 22/2015 also does not set a time limit for issuing an administrative act that resolves the complaint or request for reconsideration. Therefore, it is more than necessary for Regulation 22/2015 to specify and clarify the legal remedies available to the parties and the time limit for their use. The situation in which, in some cases, the deadlines are set in this regulation and in some cases not, may create uncertainty for the party in the procedure, to which these acts will refer, namely the provisions of Regulation 22/2015 or the provisions of Law 05/L-031 on General Administrative Procedure.

Regarding the possibility of using legal remedies, initiating a court procedure against the Commission's decision in the review procedure, Article 31, paragraph 3, of Regulation 22/2015 provides: *"Against the Commission's Decision, the dissatisfied party has the right to appeal to the competent Court."* In this regard, the Ombudsperson finds that the terminology used regarding the legal remedy is not correct, considering that instead of the term *lawsuit*, the term *complaint* is used. It is a well-known fact that the beginning of an administrative conflict in court is through the filing of a lawsuit.

The Ombudsperson finds that the Regulation does not set a time limit for filing a lawsuit in court, following the Commission's decision in the review procedure, although such a time limit is set by the Law on Administrative Conflicts.

Structure of the Commission's decisions in the process of recognizing or rejecting the status

Another important issue, according to the Ombudsperson, is the lack of individualized reasoning for the Commission's decisions, with detailed facts and evidence, which have influenced the decision to refuse recognition of the status of a victim of sexual violence during the war. According to the information we have received from the parties, the lack of elaboration of the facts and evidence that have determined the refusal, the incomplete and incomprehensible reasoning create situations of uncertainty for the parties as to the specific reasons for which recognition of their status was refused.

Although the Commission, in its response to this point, emphasized that the Commission's focus is oriented towards including the mandatory elements of the administrative act, without exposing details about the case and facts, in order to preserve confidentiality and personal data, the Ombudsperson assesses that during the development of the procedure for verification and recognition of the status of a victim of sexual violence during the war,

it is more than necessary to preserve the confidentiality and identity of the parties to the procedure. However, the decision through which the recognition of the status of a victim of sexual violence during the war is refused, beyond the requirement that it must contain the mandatory elements of an administrative act, the Commission must also process each part of the decision as determined by law and the party must be informed *of the reasons for which any of its claims were not accepted and the reasons that resulted in the refusal decision*. Therefore, in order to ensure that the party in the procedure is not limited in its ability to use the legal remedy effectively, it is necessary to be informed of which concrete facts and evidence have failed to create the Commission's conviction and trust in recognizing the victim's status.

In relation to maintaining confidentiality and data of the parties in the procedure, the Ombudsperson brings to your attention that Regulation No. 22/2015, namely Article 22, defines that all authorized persons who have access to documentation and information about the procedure have the obligation to maintain official secrecy, therefore this implies that any information presented in the decision or in the case files, as well as if the decision contains individualized reasoning about the case, it entails the obligation to maintain confidentiality for all parties and officials involved in the process and who have access to the documentation.

The process of interviewing the parties

During the handling of this case, the Ombudsperson also received a complaint regarding the manner in which the interview process was conducted, namely the possibility of survivors meeting each other while waiting for the interview. Concerns were also raised regarding the approach and manner of asking questions in the interview process and the appropriateness of the questions posed by the Commission to the survivors.

In this context, the Ombudsperson draws attention to the provisions of Resolution No. 60/147 on the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the United Nations General Assembly on December 16, 2005. The Resolution, in Chapter VI, point 10, stipulates: *"Victims should be treated with humanity and respect for their dignity and human rights, and appropriate measures should be taken to ensure their safety, physical and psychological well-being and privacy, as well as those of their families. The State should ensure that its domestic laws, to the extent possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation."*

The Ombudsperson, through this report, brings to the attention of the Commission the need to address the concerns raised by civil society and non-governmental organizations authorized in this process, regarding the conduct of the interview of the parties, the manner of asking questions and the context of the questions asked, in order to contribute to maintaining official mutual communication and with the aim of maintaining a sensitive approach to vulnerable victims and respecting the dignity of survivors who are parties to the procedure.

In terms of protecting the privacy and identity of survivors of sexual violence during the Kosovo war, the Ombudsperson draws attention to the need to take adequate measures to prevent the disclosure of their identity in the process of coming for an interview, given that the building where the Commission operates and conducts interviews also houses other departments that deal with pension, social and other issues. In such a situation, given that even four non-governmental organizations licensed by the Government have confirmed that the parties use the same entrance to the building and there have been cases when they have been able to meet with family members who were not aware of the process and their status, this could lead to a situation where the disclosure of their identity or their identification by the general public is at risk. Therefore, in this regard, the Ombudsperson considers that the necessary

opportunities and modalities should be found for organizing the interview process and access to the facility where the parties are interviewed, so that upon arrival for the interview and the interview being conducted, the parties are provided with protection from identification and privacy of the parties in the procedure by the general public.

Physical access to the premises where the Commission operates

During the handling of this issue, it was noted that the building where the Commission's offices are located and where the parties' interviews are conducted does not provide adequate physical and infrastructural access to the building for persons with disabilities or for elderly persons, who may be parties to the procedure for recognizing and verifying the status of a sexual violence victim during the Kosovo war. Therefore, the Ombudsperson has requested information from the Commission whether the issue of lack of access for persons with disabilities, in the building where the Commission operates, has ever been raised as a concern that needs to be addressed. Furthermore, in relation to this fact, the Commission has emphasized that the building where the Commission is located is under the management of the Ministry of Internal Affairs, which was offered as usable space for the Commission and further the Commission does not have competence for the management of public buildings.

However, in any specific case where the need arises to interview a party to the procedure, who may have a disability or a currently deteriorating health condition, due to advanced age or even as a result of violence, will prevent him from exercising his right to a statement or hearing in the administrative procedure, as stipulated in Article 95 of the LGAP, which states: *"Before a final decision is taken, the public organ conducting the proceeding shall notify the party about its right to be heard."*

The mandatory implementation of accessibility elements in public buildings is mandatory according to Article 44 of Administrative Instruction 33/2007 On the technical conditions of construction facilities for the access of persons with disabilities, namely point 4 – Constructions for administrative and similar purposes, and point 5 – Constructions for social, health and rehabilitation purposes.

Although the Ombudsperson has previously, through other reports, found that the building in question is inaccessible to persons with disabilities and has addressed the relevant recommendations to the responsible institutions, considering that the competent institutions have not taken action to act in accordance with the recommendations of the report, it again reiterates the need to take the necessary actions to ensure independent and unhindered access for all persons to the part of the building where the DMFWI offices and the Commission offices are located.²⁷²

Realization of benefits provided for by law

Law No. 04/L-172, of 2014, does not provide for the enjoyment of primary, secondary and tertiary health services without compensation in public health institutions for sexual violence victims of the war, as provided for in Law No. 04/L-054, of 2011, for other categories of war and their close family members. The law also does not provide for the right to psychosocial rehabilitation for sexual violence victims of the war, while it provides for medical and physical rehabilitation for other categories, according to the degree of disability.

It is important to note that rehabilitation, according to paragraph 21 of United Nations Resolution No. 60/147, includes: medial and psychosocial care, as well as legal and social services. However, the legal framework currently applicable in the country does not foresee any provision that guarantees the psychosocial rehabilitation of victims, nor does it provide free healthcare at the primary, secondary and tertiary levels in public health institutions.

272 <https://oik-rks.org/wp-content/uploads/2022/12/Raporti-AP-Ex-officio-nr-262-2018.pdf>

However, although the provision of identification cards is foreseen by the regulation in question, from the beginning of the process until now, the victims whose status has been recognized have not been provided with identification cards. The lack of an identification card makes it impossible to provide various services and benefits, since the same would serve as evidence for the realization of the benefits determined by law. Therefore, the Ombudsperson considers it more than necessary for the competent institutions to urgently address the issue of providing cards to victims whose status has been recognized.

Deadline for submitting applications

However, according to information that the Ombudsperson has received from non-governmental organizations authorized by the Government to receive and submit applications, they have requested that this deadline be unlimited for two reasons: due to the fact that war crimes and crimes against humanity are not subject to statute of limitations; and also, in addition, to provide victims with the opportunity to submit their application for recognition of status whenever the appropriate conditions and circumstances, whether family or social, are created, so that they are able to continue the process of recognition and verification of the status of a survivor of sexual violence in the Kosovo war.

Some examples of how the issue is being resolved in countries in the region and beyond

Looking at the analysis of the regulation of the issue in other countries in the region, which have also emerged from the war, it is noted that, for example, in Bosnia and Herzegovina, the recognition of the victim's status is regulated at three different levels of government: in the Federation of Bosnia and Herzegovina, in the Serbian Republic and in the Brcko District. In the Federation of Bosnia and Herzegovina there is the Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children of the Federation of Bosnia and Herzegovina, while in the Brcko District there is the Decision on the Protection of Civilian Victims of War. Meanwhile, in the Serbian Republic there is the Law on the Protection of Victims of Torture.

According to the 2018 Law No. 90/18 on the Protection of Victims of War Torture of Bosnia and Herzegovina, among the main rights or benefits recognized to victims of sexual violence during the war are the right to free healthcare; the right to health rehabilitation; and the right to exemption from judicial and administrative fees (Articles 7 and 8 of the Law). This Law further provides for a two-tier administrative process for the recognition and verification of status, where it is provided that the decision for the recognition and verification of status is taken by the first-instance/local level authority and the same provides for the right to appeal to the relevant ministry (Articles 17 and 18 of the Law).

Meanwhile, viewed from the perspective of regulating the issue in the Republic of Croatia, also a country emerging from war, it is noted that the Law on the Rights of Victims of Sexual Violence during Armed Aggression against the Republic of Croatia, of 2015, provides for mandatory health insurance; psychosocial support; medical rehabilitation; medical assistance, etc., as benefits and rights recognized for victims of sexual violence during the war.

Some of the findings of the Ombudsperson in this report are that Regulation No. 22/2015 on Defining the Procedures for Recognition and Verification of the Status of Sexual Violence Victims During The Kosovo Liberation War has several legal gaps and fails to regulate in detail the procedure that parties must follow when applying for recognition of status and the development of the verification process. The Regulation has legal gaps regarding the specification of deadlines as well as uncertainties in the legal terminology used in relation to the legal remedies available in the procedure and beyond.

The failure to provide for a specific deadline for the development of the procedure for verification and recognition of the victim's status and the issuance of the Commission's decision, and

in the absence of this deadline set out in this regulation, the reference to the provisions of the Law on General Administrative Procedure, according to the Ombudsperson, creates uncertainty in the legitimate and reasonable expectations of the parties to the process, as well as confusion as to whether the 30-day deadline set out in the Guide for the Process of Recognition and Verification of the Status of Sexual Violence Victims during the Kosovo Liberation War should be applied or a reference to the 45-day deadline set out in the Law on General Administrative Procedure, with the possibility of extension.

Regarding the terminology used and referred to for the available legal remedies, in this regard it should be clarified and specified which legal remedy the parties have at their disposal in the first instance, whether it is a request for reconsideration or an appeal. Because Article 30, paragraph 3, of Regulation 22/2015, stipulates: *“In case of rejection, the party shall be instructed for the opportunity of the review of the Application and entitled to appeal the rendered decisions within 15 days.”* Consequently, this paragraph on the one hand provides for the review of the request, while on the other hand emphasizes the 15-day deadline for filing an appeal. In this case, it is worth noting that the Law on General Administrative Procedure recognizes only the appeal and objection as regular legal remedies in administrative procedure.

The Ombudsperson emphasizes that the clarification and specification of Regulation No. 22/2015 on available legal remedies and applicable time limits contributes to ensuring respect and guaranteeing the effective use of the right to legal remedy for the parties in the procedure.

Regulation No. 22/2015 does not incorporate the principle of independence and impartiality in decision-making, the principle of objectivity and the principle of two instances and that of administrative control at the time of the development of the procedure for the review of the Commission's decision to refuse to recognize the status. The Regulation also does not determine how the Commission operates in the review process; is there a special body that deals with the review of the request for review within the Commission, or does the same composition also act in the review? Therefore, it is necessary for the Regulation to determine in what composition the Commission acts as a first instance and in what composition it acts as a second instance. Two-instance is a recognized principle in administrative procedure, where it is the practice for the decision on the legal remedy to be taken by the superior body.

Viewed from the formal aspect of the administrative act by which the refusal to recognize the status of a sexual violence victim of the war is decided, the Ombudsperson brings to your attention the need to take concrete actions so that during the development of the administrative decision-making procedure, the reasoning of the decisions is individualized for each case separately and contains the elaboration of the facts and evidence administered, which have influenced the decision-making, always respecting the forms and modalities of preserving the confidentiality of the procedure and the identity of the parties. The Ombudsperson assesses that the Commission, within its competences and under the framework of preserving the principle of confidentiality of the data of the procedure, needs to find the appropriate forms and modalities of individualizing the reasoning of the decisions, avoiding template or similar reasoning in different cases.

According to the Ombudsperson's assessment, it is necessary to organize the interview schedule in such a way as to avoid any possible confrontation of victims with each other while waiting for the interview and when entering the facility where the Commission operates, being aware that other social and pension service departments also operate in the facility in question.

The Ombudsperson reiterates that the failure to adapt the physical access of the facility where the interview is conducted, in terms of infrastructure, so that it is accessible to everyone, without distinction, i.e. for elderly people with mobility difficulties, but also for people with disabilities, violates the principle of equal treatment and non-discrimination. It may also violate the right to statement and hearing of the parties in the procedure, because as a result of the

physical inaccessibility of the facility, conducting the interview becomes impossible.

Regarding the issue of the unlimited time limit for applying in this process, taking into account the fact that war crimes are not subject to statute of limitations, the Ombudsperson brings to attention the need to consider the possibility of removing the deadline of the application process and the realization of the rights deriving from the recognition of the status of a victim of sexual violence during the war in Kosovo so that they are unlimited, and, thus, the victims/survivors have the opportunity to begin the application process for recognition of status whenever situations or circumstances arise that are suitable for them to begin this procedure, be they family or social circumstances.

The Ombudsperson considers that the responsible institutions should find the necessary formal modalities so that persons whose status has been recognized are provided with identification cards, in order for the parties to be able to realize the benefits defined by law for this category, such as: health services, housing, employment, exemption from property tax, etc.

The Ombudsperson further finds that neither the law nor the regulation contain any legal provisions that would refer to psycho-social support for victims whose status as victims of sexual violence during the war has been verified and recognized, with the aim of their recovery and enabling easier reintegration into the family and society.

The Ombudsperson also considers it necessary the review within the competent instances of the Kosovo Judicial Council, regarding the possibility of priority treatment in court of cases of this nature.

Through this report, the Ombudsperson recommended to the Government of the Republic of Kosovo: To supplement/amend Regulation 22/2015 on defining the procedures for recognition and verification of the status of sexual violence victims during the Kosovo liberation war: *regarding the specification/provision of the deadline for the completion of the administrative procedure and the issuance of the Commission's decision, for the recognition or refusal to recognize the status of a victim of sexual violence during the war in Kosovo; regarding the specification/provision of the legal remedy available to the parties, in the process of re-evaluation of the application and in the process of initiating judicial proceedings of the administrative conflict in court; regarding the specification/provision of the time limit for issuing the decision in the procedure of re-examination of the application, upon the request for re-examination or re-evaluation of the application; ensuring compliance with the principle of two instances and administrative control in the process of re-examination or re-evaluation of the application regarding the refusal to recognize the status of a victim of sexual violence during the war.*

To supplement/amend the legal regulations in force, so that the provision of psychosocial services is also foreseen for victims whose status is recognized.

The deadline for submitting applications for recognition and verification of status should not be limited. To supplement/amend Law No. 04/L-054 on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosova Liberation Army, Sexual Violence Victims of War, Civilian Victims and Their Families, so that victims of sexual violence during the war are recognized the right to primary, secondary and tertiary health services free of charge in public health institutions.

Government Commission for the Recognition and Verification of the Status of Sexual Violence Victims during the Kosovo Liberation War:

To review, process and issue a decision on applications for recognition or refusal of the status of a victim of sexual violence, in accordance with the established time limits.

When drafting decisions, within the framework of maintaining the confidentiality of the parties,

the legal requirements arising from Articles 47 and 48 of Law No. 05/L-031 on General Administrative Procedure shall be respected, respectively regarding the structure and mandatory elements of the administrative act and the reasoning.

In the process of conducting interviews with survivors, the necessary opportunities and modalities shall be found for the best organization of the interview time, in order to ensure that victims are protected from disclosure of their identity and that the confidentiality of the procedure and the data of the parties are maintained while waiting for the interview.

In the process of interviewing survivors, ensure respect for their dignity, human rights, physical and psychosocial well-being, and privacy.

The Ministry of Internal Affairs:

To ensure that the premises/facility where the Commission operates and where the interviewing of victims is carried out are physically and infrastructurally accessible to all, and in particular to persons with disabilities.

To ensure that the premises where the Commission operates and where the parties process their applications, upon access to the building, are suitable for the purpose of preserving the confidentiality of the identity of the victims/parties and protecting them from any possibility of their identity being revealed to the public and beyond.

The Ministry of Finance, Labour and Transfers:

To develop relevant procedures for providing victims with identification cards, in accordance with Article 37 of Regulation No. 22/2015.

To the Kosovo Judicial Council:

To process cases initiated in court, with priority.

Gender-based discrimination in the selection of the deputy director of Radio Television of Kosovo

The report is based on an individual complaint and aims to draw the attention of Radio Television of Kosovo (RTK) to the issue of the selection procedure for the Deputy Director General of RTK and the implementation of Law No. 05/L-020 on Gender Equality, regarding equal gender representation in the selection of the Deputy Director General of RTK in the competition dated 22 November 2022.

The complainant had applied for the position of Deputy Director General of RTK and had been interviewed for this position. She was then notified by the RTK Administration via an official email that, based on the final result, she had achieved 82.6 points and was informed by the Selection Committee that, after the deadline for complaints, the most successful candidate would be proposed to the Director General of RTK. After that, on December 30, 2022, after regular working hours, she was notified by the RTK Administration that on 6 January 2023, she would be invited for a re-interview by the same Selection Committee.

The complainant announced that after two requests she had sent to the RTK Administration, it was not clarified on what basis the re-interview for the position of Deputy Director of RTK would be conducted and for this reason she informed the RTK Administration that she had decided not to appear for the re-interview and after that, on January 11, 2023, she filed a complaint with the Appeals Commission against the Decision of the Selection Commission, which was rejected by the Appeals Commission.

In the request of the Ombudsperson to be informed by RTK regarding the complaint, in the received response it was announced that the selection process of the Deputy Director of RTK has been returned for review in accordance with the Regulation on the Procedures for the

Selection of the General Director and Senior Management of RTK, which stipulates that the Complaints Commission may: *“Return the case for review by describing the omissions that should be avoided by the Selection Commission.”* Further in the response, it was stated that there has been no practice for the case to be returned for review to the Selection Commission, as it has been a few months since the *Regulation on the Procedures for the Selection of the General Director and Senior Management* entered into force. The response further explained that the Appeals Committee for reviewing the Selection Committee’s decision acted upon the complaint of the dissatisfied party, in which case it found a violation, but the violation is not of a nature that would damage the entire process, therefore it approved the complainant’s complaint as partially grounded and returned the case for review, recommending that the Selection Committee avoid the violations identified.

According to the Ombudsperson’s assessment in this report, based on the circumstances of the case, he assesses that the procedure for selecting the Deputy Director of RTK was conducted in a manner that leaves the possibility of raising substantial issues regarding the regularity of this process, for reasons that will be explained below. Even though there was a successful complaint regarding procedural violations during the evaluation of candidates, the return of the case for review by the Complaints Commission to the same Selection Commission, which was found to have committed procedural violations, compromises this recruitment process. Furthermore, the failure to clearly define the circumstances under which cases can be returned to the Selection Commission for review leaves wide discretionary space for both commissions, which may also lead to arbitrariness.

The Ombudsperson assesses that the regular and fair process by RTK in this specific case has been called into question. This is not only due to the fact that the matter is being re-examined by the same Selection Commission, which, with the omissions that have been identified by the Complaints Commission, has damaged a recruitment process, but also due to the fact that the ambiguity and lack of transparency of the internal employment regulations have numerous negative impacts on the rights of candidates and employees. The procedural aspect of recruitment is an essential prerequisite for ensuring a regular and fair process. This is important to guarantee that the candidate selection process is structured, fair and impartial.

The Ombudsperson assesses that in this case the principle of equality has also been violated, taking into account the fact that out of the four candidates who underwent the recruitment procedures, the complainant was the only female candidate.

The data that the Ombudsperson has obtained from RTK as part of a comprehensive investigation regarding the implementation of the Law on Gender Equality by public institutions, results that RTK has failed to implement the legal obligation set out in Law No. 05/L-020 on Gender Equality, ensuring a minimum representation of fifty percent (50%) for each gender, in all management and decision-making positions, with the aim of equal gender representation.

According to the data, at the senior management level in RTK there are 4 men and one woman; at the middle management level there are 9 men and 7 women; and at the administrative level there are 36 men and 29 women.

Through this report, the Ombudsperson recommended that the Radio and Television of Kosovo amend the Regulation on the Regulation of Competition Procedures in RTK, in such a way as to remove paragraph 3.3 of Article 38, which states: *“To return the case for review by describing the omissions that should be avoided by the Selection Committee.”*, or to clearly define the circumstances based on which the case is returned for review, as well as to implement the legal obligation set out in Law No. 05/L-020 on Gender Equality, ensuring a minimum representation of fifty percent (50%) for each gender, in all management and decision-making positions, with the aim of equal gender representation.

The Ministry of Health's decision to only provide replacement, maintenance, or placement of prostheses for individuals with the status of KLA war invalids, while excluding civilian war invalids, is seen as discriminatory

The report has been prepared based on an individual complaint, and the purpose of this report is to bring to the attention of the Ministry of Health the implementation of Decision No. 01/194, dated March 20, 2024, regarding the coverage of medical treatment for individuals with war invalid status. This decision was issued by the Government of the Republic of Kosovo in accordance with Article 6 of Law No. 04/L-054 on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army (KLA), Civilian Victims of War and Their Families.

The Government of the Republic of Kosovo adopted Decision No. 01/194, approving the request of the Ministry of Health for the coverage of medical treatment for individuals with *war invalid status*. This includes the replacement, maintenance, or placement of prostheses outside of public health institutions when they do not provide these services. The decision stipulates that the funds for the implementation of this decision are utilized from the budget of the program for medical treatment outside of public health institutions. Additionally, the Ministry of Health and the Health Security Fund are required to implement this decision in compliance with the current legislation.

The Ministry of Health has issued Decision No. 43/III/2024, which requires the Board for Medical Treatment Outside of Public Health Institutions to financially cover the replacement, maintenance, or placement of prostheses requested by applicants seeking medical treatment outside of public health institutions. This coverage is only provided to individuals who have the *KLA war invalid status*. The ministry pointed out that Administrative Instruction No. 03/2023 for Medical Treatment Outside of Public Health Institutions does not specify the category of individuals with the KLA war invalid status. In light of this, and in accordance with Decision No. 01/194, dated March 20, 2024, of the Government of the Republic of Kosovo, it was decided as stated in the enacting clause of this decision (Decision No. 43/III/2024).

The complainant, acting as the president of the Association of Civilian Injured by Mines, filed a complaint with the Office of the Prime Minister and the Health Insurance Fund against the decisions made by the Board of the Health Insurance Fund. These decisions, based on Government of the Republic of Kosovo Decision No. 01/194, did not take into account the requests of civilian war invalids for medical treatment and adequate funding for prostheses. However, the complainant stated that he had not received a response.

The complainant alleges that civilian war invalids are feeling discriminated against by the Ministry of Health, as the Government of the Republic of Kosovo made a decision based on Article 6 of Law No. 04/L-054 on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army (KLA), Civilian Victims of War and Their Families. This law grants special benefits to civil war invalids. However, the Ministry of Health's decision only extends these benefits to individuals with the *KLA war invalid status*, thus excluding *civilian war invalids*.

The Ombudsperson has observed that Decision No. 43/III/2024, dated March 22, 2024, issued by the Ministry of Health, represents a discriminatory approach, because the decision only determines benefits for individuals with the *KLA war invalids status*, while excluding those with the status of *civilian war invalids* despite both categories being entitled to the same benefits, as explicitly defined in Article 6, paragraph 1.7 of Law No. 04/L-054 on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims of War and Their Families. Therefore, the Ombudsperson has recommended

that the Government revoke Decision No. 43/III/2024, dated 22 March 2024, issued by the Ministry of Health. Additionally, the Ministry of Health has been advised to take appropriate measures in accordance with Law No. 04/L-054 on the Status and the Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims of War and Their Families, to ensure that *civilian war invalids* receive the special benefits they are entitled to.

Opinion on the obligations of the University of Prishtina “Hasan Prishtina” to act in accordance with the principles of the Law on Protection against Discrimination

In this opinion, the Ombudsperson takes a stance on the obligations of the University of Prishtina “Hasan Prishtina”. The university should act in accordance with the principles of the Law on Protection against Discrimination and relevant legislation in force while carrying out its duties and responsibilities. This opinion stems from a complaint filed against the University of Prishtina “Hasan Prishtina” (hereinafter referred to as: UP), alleging a violation of the right to work and exercise a profession, as well as unequal treatment and discrimination in the process of establishing an employment relationship.

Pursuant to its competencies defined in Article 173, paragraph 4 of the UP Statute, and in accordance with Law No. 04/L-037 on Higher Education, as well as Regulation No. 886 on Selection Procedures regarding the Appointment, Re-appointment and Promotion of Academic Staff, the University of Prishtina, announced Public Competition No. 1/331 on May 31, 2023, for the appointment, re-appointment and promotion of academic staff in the UP faculties. Based on point 1 of the competition, the complainant applied for position No. 13: *“An assistant for the following subjects: History of Southeast Europe II (O), Public History, Management of Historical Preservation Programs (O), Regulation and Processing of Archival Material (O), Archival Studies - Theory and Practice (O), Archival Legislation (S), History of Civilization (O), Methodology of History (O), and History of Modern Civilization (O).”* Four other candidates also applied for this position.

In this regard, the Faculty of Philosophy published a report in the University of Prishtina bulletin after completing the recruitment procedure. The report announced the selection of the applicant as a successful candidate and included the proposals of the selected candidates. Subsequently, the report was sent to the Office for Academic Affairs at the UP Rectorate, which found no violations in the position for which the applicant was selected.

Later, the complainant informed that the Rector had approached the Ethics Council requesting a review of the complainant’s academic integrity. The complainant claimed that this request was only made for him and not for the dozens of other candidates who had been selected in the recruitment process. In Decision No. 159, the Ethics Council recommended to the Senate: *“to consider the fact that the reputation and credibility of the University would be seriously jeopardized if the ethical appropriateness and questionable past of candidates are not taken into account in the recruitment process of academic staff, especially when this past is considered in relation to the University.”*

The University Senate issued Decision No. 647, rejecting the appointment of the complainant/ candidate for the academic position he had applied for.

The Ombudsperson considered that the selection procedure for the appointment, reappointment, and promotion of academic staff at the University of Prishtina is clearly defined in Regulation 886. In addition, the appointment of academic staff is determined by Article 171 of the UP Statute. The Ombudsperson believes that the Rector, in requesting the Ethics Council to review the complainant’s academic integrity, acted outside the competencies defined by the UP Statute and in violation of Regulation No. 886. Furthermore, this request was only made for the complainant and not for the dozens of other candidates selected in this recruitment procedure.

According to Article 173 of the University of Prishtina Statute, academic staff are appointed by the Rector upon the decision of the Senate, which is based on the proposal of the academic unit council. If the proposal is rejected, it is sent back to the academic unit council for reconsideration. However, if the academic unit council resubmits the same proposal even after reconsideration, the Senate will make the final decision. All appointments are confirmed after the evaluation of application documentation by the evaluation committee, which is formed by the academic unit council with the proposal of the branch - department.

Considering that the complainant has not been and is not employed at UP, nor is a student, the Ombudsperson believes that the Rector's request to the Ethics Council constitutes a violation of the procedures outlined in Regulation 886. This assessment is based on the provisions of the Code of Ethics (Prot. No. 1/751, dated 19.7.2013), specifically Article 3 which defines the scope of the code and applies to all academic staff at UP, regardless of their employment status or level of appointment. This includes, but is not limited to the position of *lecturer, assistant, assistant professor, associate professor, and full-time professor*. Therefore, the provisions of the Code of Ethics at UP do not apply to candidates in the selection/recruitment process of academic staff.

The Ombudsperson emphasizes that Regulation No. 886 does not contain any provisions regulating the issue of credibility or integrity of individuals participating in the selection process for UP staff. However, the integrity of candidates in the selection procedure who are not currently employed at UP is evaluated by providing evidence from the competent court that the candidate is not under investigation and has not been convicted. This evidence is outlined in the General Conditions of the announced competition, specifically in point II. – Necessary documents for application, point j), specified in Public Competition No. 1/331, on May 31, 2023, for the appointment, reappointment, and promotion of academic staff in the UP faculties.

The actions of the Rector, the decision of the Ethics Council, and ultimately the decision of the Senate not only place the complainant in an unequal position but also constitute discrimination according to the definitions of Article 1 of Law No. 05/L-021 on Protection from Discrimination: “[/] combating discrimination based on nationality, or in relation to any community, social origin, [...] or any other grounds, in order to implement the principle of equal treatment.”

The Rector's request for the Ethics Council to review the complainant's academic integrity, rather than that of other candidates selected in the same recruitment procedure, is arbitrary. This request puts the complainant in an unequal position compared to other candidates, and therefore constitutes discrimination.

In addition to complying with all current legislation and regulations in its daily activities, the University of Prishtina is also obligated to fully adhere to the principles outlined in the Law on Protection against Discrimination. Failure to comply with internal acts according to their intended purpose and scope, as well as neglecting to uphold the principles of the Law on Protection against Discrimination, can result in human rights violations, respectively discrimination.

Opinion on the obligations of state authorities to act in accordance with the principles of the Law on Protection against Discrimination

The purpose of this opinion is to express the Ombudsperson's views on the obligations of state authorities to act in accordance with the principles of the Law on Protection against Discrimination and relevant legislation in force while exercising their duties and responsibilities. The opinion is based on an individual complaint filed against the Independent Commission for Mines and Minerals with allegations of age discrimination in the case of a decision to terminate employment as the Chairperson of the ICMC Board.

The complainant was unable to complete her five-year term as the Chairperson of the Board, as elected by the Assembly of the Republic of Kosovo. The decision to retire the complainant

was made by the three members of the Board on the grounds that the Chairperson had reached retirement age. This decision was based on Article 59, paragraph 3, of the Law on Mines and Minerals. The Ombudsperson believes that the ICMM Board has overstepped its authority under the law, as this authority belongs exclusively to the Assembly of the Republic of Kosovo.²⁷³

The Assembly of the Republic of Kosovo did not respond to the actions of the three members of the Board. Instead, the Committee for Economy, Industry, Entrepreneurship and Trade of the Assembly of the Republic of Kosovo invited the ICMM Board members to a meeting several months later to discuss issues related to their work and responsibilities. The complainant was also present at the meeting. However, the Assembly of the Republic of Kosovo later dismissed the entire Board, including the complainant.

The Ombudsperson considers that the decision to retire the complainant by an incompetent body is also in violation of Law No. 05/L-031 on General Administrative Procedure, specifically Article 4, paragraph 1 thereof, which establishes the principle of legality.²⁷⁴ This decision is considered illegal in terms of Article 52 of the same law, which defines an administrative act as illegal if *“it was issued without legal authorisation according to paragraph 2. Article 4, of this Law (paragraph 1, sub-paragraph 1.1); and the issuing public organ acted without having the competence.”* (sub-paragraph 1.2).

After reviewing the response and documents provided by the ICMM, the Ombudsperson has observed that a similar practice was not followed in the past by the ICMM with one of its male Board members. In this instance, the Board member reached retirement age during his term but continued serving until the end of his mandate, similar to the case on the complainant.

Furthermore, the Ombudsperson assesses that the ICMM has not only exceeded its legal competencies, but has also acted in violation of the Law on Protection against Discrimination.

According to the Ombudsperson’s assessment, this approach constitutes multiple discrimination as defined in the Law on Protection against Discrimination, Article 4, paragraph 1, subparagraph 1.10. Multiple discrimination occurs when discrimination is based on any combination of the grounds covered by this law.

The Ombudsperson believes that, in addition to complying with all other existing laws, the ICMM is required to fully adhere to the principles of the Law on Protection against Discrimination during its activities. Failure to comply with the principles of the Law on Protection against Discrimination results in a violation of human rights, specifically discrimination, as evidenced in the case of the complainant.

273 Law No. 03/L-163 on Mines and Minerals and Law No. 04/L-158 on Amending and Supplementing Law No. 03/L-163 on Mines and Minerals, namely Article 60 [Removal of Members of the Board].

274 Law No. 05/L-031 on General Administrative Procedure, Article 4, paragraph 1: “Public organs shall act in accordance with the Constitution, legislation in force, as well as with the applicable general administrative rules, within their competencies and in conformity with the goal for which these competencies have been granted.”

The Right to Life

Assessment of Treatment and Respect for Patient Rights in the Psychiatric Emergency and Intensive Care Unit at the Psychiatric Clinic in Prishtina

The report was initiated *ex-officio* based on reports from the “KOHA” portal, titled: *“Patient dies in Psychiatric Ward after setting room on fire”*²⁷⁵. It was reported that one of the rooms in the Psychiatric Intensive Care Unit at the University Clinical Center of Kosovo was engulfed in flames on Wednesday evening (August 24, 2023). On the same day, the University Clinical Center of Kosovo released a statement regarding the case, emphasizing the following: *“The University Clinical Center of Kosovo (UCCCK), would like to inform you that last night, around 23:00, a fire broke out in the Psychiatric Emergency and Intensive Care Unit. The fire occurred in one of the closed-type rooms where patients are temporarily housed. These patients are in a state of aggression and pronounced psychomotor agitation, and are not conscious of their mental state. It is suspected that at the same time, a patient in the same Unit set the fire in unknown circumstances in a closed-type room. As a result, the patient lost his life due to suffocation from smoke (asphyxiation), despite the maximum efforts of the health staff to save the patient.”*²⁷⁶

The purpose of this report is to evaluate the treatment and respect of the rights of patient I. S. (now deceased), who underwent involuntary treatment at the Mental Health Institution in the Psychiatric Emergency and Intensive Department (hereinafter referred to as PEID). These rights are guaranteed by the Constitution of Kosovo, current laws, and international acts. Due to their vulnerability, mentally ill individuals require special attention to prevent any form of mistreatment or neglect of their well-being.

In this report, the Ombudsperson, based on findings from visits conducted in the PEID Department and the assessment of documentation, among other things, concludes that despite being checked every 30 minutes, the patient should have been subject to continuous monitoring more frequently than every 30 minutes by the medical staff due to their severe mental condition. More frequent monitoring would help prevent any form of self-harm by the patient in question and other patients.

According to CPT standards, a nurse should be present at all times in the Isolation Room when a patient is in isolation to maintain a therapeutic relationship with the patient and provide assistance. Alternatively, the nurse may remain outside the patient’s room (or in an adjacent room with a window that communicates with the patient’s room), as long as the patient can see the staff member and the nurse can observe and listen to the patient continuously.

The patient, now deceased I. S., was not properly checked by the admission staff upon admission. A thorough evaluation of the patient upon admission could have prevented any form of self-harm or potential harm to other patients in the PEID ward. To ensure the safety of admitted patients, in principle, it is essential that they are thoroughly evaluated and given the opportunity to provide free consent and be informed, as much as possible, about any involuntary treatment or placement in isolation (solitary confinement). Furthermore, any decision regarding involuntary placement should be made by a judicial authority or promptly confirmed by such an authority. In this case, the competent court was not notified at all.

The Ombudsperson also noted that the smoke alarm was not working at the time of the incident, and during the most recent visit, it was observed that the smoke alarm had still not been fixed. The PEID department is not monitored by security cameras, except for the area

²⁷⁵ <https://www.koha.net/kronike-e-zeze/389595/vdiq-nje-pacient-ne-repartin-e-psikiatrise-ia-vuri-flaken-dhomes>

²⁷⁶ <https://shskuk.rks-gov.net/News/SingleNews/17790>

in the Patient Admissions Office.

The Isolation Room where the patient I. S. (now deceased) was placed did not provide a calming and safe environment. During the last visit to PEID, the Ombudsperson noted that the Isolation Room where the incident occurred has not been renovated. Therefore, the Ombudsperson concludes that the Isolation Room where patients are placed should be specially designed for this purpose. Specifically, the environment should ensure the safety of the restrained patient and provide a calming atmosphere for them.

The Isolation Room Form is incomplete and does not provide sufficient information for patients placed in isolation. This lack of information results in a failure to deliver the services offered by the staff. The Ombudsperson believes that it is the duty of state authorities to fulfil their positive obligations to protect and respect mentally ill individuals. Patients with mental illness require extra attention to prevent any form of dangerous behaviour towards themselves or others. The use of isolation measures should be brief (usually in minutes, not hours) and should end as soon as the reasons for the restriction no longer exist. In the case of the deceased I. S., the isolation measure had been in place for several days, which cannot be justified and, according to the Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT), could lead to mistreatment.

In this report, the Ombudsperson recommends to the Ministry of Health that in cases where isolation measures are applied, patients should be visited continuously and frequently. Additionally, the nurses' room should be located near the Isolation Room in the Psychiatric Emergency and Intensive Care Unit; Patient checks should be more detailed, and the practices of other countries for the use of body scanners before admission should be examined; The smoke alarm in the Psychiatric Emergency and Intensive Care Unit should be functionalized; Security cameras should be installed throughout the Psychiatric Emergency and Intensive Care Unit; Isolation rooms should be renovated according to international standards, creating a safe and calming environment for the patient in the Psychiatric Emergency and Intensive Care Unit; Forms should be created for isolation rooms, including the hours when the measure started and ended, the circumstances of the case, the reasons for its use, the name of the physician who ordered or approved it, and a description of any harm suffered by the patient or staff, as well as any actions taken by the nurse during supervision (observation).

Right to a Fair and Impartial Trial

Reports referring to the delay of judicial proceedings at all levels of courts

According to the interpretation of the European Court of Human Rights, a delay in judicial proceedings refers to the time period from the beginning of the procedure until its conclusion. During this reporting year, a relatively large number of complaints have been received and a number of cases have been identified in which reports have found delays beyond reasonable deadlines that undoubtedly affect the right to a fair and impartial trial.

As a general rule, the Ombudsperson provides recommendations on the functioning of the judicial system and does not intervene in ongoing cases or other legal proceedings before the courts, unless there is evidence of procedural delays. In this sense, the purpose of addressing reports to the courts is to draw attention to the need to take appropriate action to review and decide on cases promptly, considering that delays in judicial proceedings affect a fair and impartial trial.

When assessing the reasonableness of the duration of the proceedings and preparing these reports, the following factors were taken into consideration: the complexity of the case; the behaviour of the applicant, the behaviour of the relevant judicial authorities, and the significance of the matter at hand for the applicant in the dispute.

Based on these factors, an overall assessment of the circumstances presented in the institution has been made in 50 reports. It has been found that such delays, without final decisions, violate the following rights:

- the right to a fair trial and due process, within a reasonable timeframe as defined and protected by Article 31 of the Constitution of the Republic of Kosovo and Article 6 of the ECHR;
- the right to effective legal remedies, protected by Article 32 of the Constitution of the Republic of Kosovo and Article 13 of the ECHR;
- the right to judicial protection of rights as defined in Article 54 of the Constitution of the Republic of Kosovo.

The reports submitted to the courts this year are as follows:

Fourteen (14) reports with recommendations were submitted to the Special Chamber of the Supreme Court of Kosovo. Responses to these recommendations were received in ten (10) cases. Out of these, three (3) recommendations have been implemented, seven (7) recommendations are still pending implementation, and in four (4) reports with recommendations no response has been received.

Seven (7) reports were addressed to the Court of Appeals. Responses were provided in three (3) cases, out of which three (3) recommendations have been implemented, while one recommendation is still pending implementation, and in three (3) reports no response has been provided.

One (1) report with recommendations was addressed to the Commercial Court. However, the court did not provide a response regarding its implementation.

Twenty-six (26) reports were addressed to the Basic Courts. Responses to these recommendations were received in twenty-one (21) cases. Out of these, four (4) recommendations were implemented, while seventeen (17) recommendations are pending implementation, and in five (5) reports no response has been provided.

Failure by the Police Inspectorate of Kosovo to undertake actions for completing the investigative proceedings concerning the complainant

The purpose of this report is to identify violations of human rights and fundamental freedoms by Police Inspectorate of Kosovo (PIK), and to draw attention to the need to take appropriate action towards completing the investigative proceedings concerning the complainant, as well as to ensure accountability for the responsible PIK officers involved in the case.

The complainant alleges that PIK violated legal procedures when recommending to KP to suspend him from work and that he still continues to suffer the consequences related to such an action. According to the records, the Chief Executive Officer of PIK had recommended to the Director of KP, among other things, to suspend the complainant from work pending the completion of the investigations. On the same day, the General Director of KP, by Decision No. 01/0929, had suspended the complainant from work temporarily, with 50% of his salary, even though according to the complainant, he had not been officially informed about the reasons for the suspension, except for the information that PIK had recommended his suspension, although he had never been interviewed by PIK in the capacity of a suspect.

In relation to his suspension, the complainant claimed that it had been reported in the media, where he was presented as an abuser of official duty, which, as stated by the complainant, made him feel publicly lynched and consequently experience anxiety and a sense of shame on his part.

Subsequently, the General Director of KP issued Decision 01/0006/19, whereby the complainant's suspension was terminated following the recommendation given by PIK, although the complainant was again not notified of either the reasons for the suspension or the reasons for the termination of the suspension.

He claims that he is still suffering consequences relating to the suspension, even after the decision being made by KP to terminate the suspension against him; he has not yet been compensated 50% of his salary for the period he was suspended, and at PIK it still stands that there are open cases for which it is not known when the investigation will be completed.

In communication with responsible authorities, the Ombudsperson was informed by the Basic Prosecution Office in Prishtina that they have closed this case with a report dated 12 April 2023.

Through this report, the Ombudsperson assesses that this process, although it was conducted only in the pre-criminal phase, it results to have lasted for almost six years, even though the State Prosecutor had already closed the case with a report, while the unreasonable delay of the PIK for completing the proceedings violates the complainant's right to effective legal remedies. Moreover, the complainant was facing consequences related to his career because of these cases that continued to be recorded as open at PIK.

According to the ECtHR, the "reasonable" length of the proceedings must be assessed on the basis of the circumstances of the case and in relation to the following criteria: the complexity of the case, the position of the applicant and the relevant authorities, and the interests of the applicant in the dispute.²⁷⁷ The Court has emphasized that Article 6 applies to the entirety of the proceedings relating to "the merits of any criminal charge"²⁷⁸, starting from the investigation stage conducted by the police²⁷⁹, to that of determining the sentence.

The Ombudsperson assesses that the process in the complainant's case cannot be considered complex and notes that PIK, by playing a passive role in handling the complainant's case efficiently and based on applicable laws, has shown a deficiency in its action, respectively in its functioning, and suspicions for arbitrariness.

The Ombudsperson, in this case, assesses that victimization cannot be interpreted in a narrow sense but must nevertheless be seen in light of the circumstances of the case, which concern the actions that the complainant had taken in reporting the case, which, as assessed by him, constituted a potential violation of the law. Meanwhile, one of the narrower meanings of the concept of victimization is the situation when a person is placed in the position of a victim due to reporting or raising issues with respect to the cases that relate to unfavourable treatment in the enjoyment of his/her rights.

In this report, the Ombudsperson ascertains that PIK has not handled the case in an efficient manner and has not acted pursuant to the applicable legislation. This process, even though it has been conducted only in the pre-criminal phase, results to have lasted for almost six years, despite the State Prosecutor having already closed the case with a report, whereas the unreasonable delay by PIK to complete the proceedings violates the complainant's right to effective legal remedies.

Moreover, the Ombudsperson finds that the complainant's right to a fair trial, namely the right to a fair and impartial trial, guaranteed by Article 31 of the Constitution and Article 6 of the ECHR, has been violated. As regards this right, the Ombudsperson finds that there is a violation of three aspects of a fair trial: first, the length of criminal investigation proceedings

²⁷⁷ The case of Luli and Others v. Albania, especially paragraphs 91 and 95

²⁷⁸ Phillips v. United Kingdom, 5.06.2001, no. 41087/98, § 39

²⁷⁹ Case of Imbrioscia v. Switzerland

by PIK, initiated since 2018, constitutes a violation of the complainant's right to a fair trial. Second, the fact that the complainant was not notified within as short a period of time as possible about the nature and the reason for the accusation against him, and third, the public lynching through the media, constitutes a violation of the presumption of innocence.

With this report, the Ombudsperson recommended to the Police Inspectorate of Kosovo that, without further delay, it undertake appropriate actions towards completing the investigative proceedings against the complainant and avoiding his further victimization, as well as taking measures to ensure accountability for the responsible PIK officers involved in the case, due to legal violations, as well as the failure to complete the investigative proceedings against the complainant, according to the legislation in force.

Right to Legal Remedies

Opinion with respect to the obligations of state bodies to act in accordance with the principles, general rules, and acceptance conditions and handle citizens' complaints, in accordance with the provisions of the Law on General Administrative Procedure

The opinion is based on an individual complaint and aims to express the positions of the Ombudsperson regarding the obligations of state bodies to act in accordance with the principles, general rules, and acceptance conditions as well as for handling citizens' complaints in the exercise of their duties and responsibilities, according to the provisions of the Law on General Administrative Procedure and the relevant legislation in force.

The complainant claimed that she applied for the job position *of a dentist* at the MFMC in Fushë Kosovë, in the Job Vacancy No. 686, announced on 7 July 2022, by the Municipality of Fushë Kosovë/Directorate for Health and Social Welfare. She underwent a written test on 29 July 2022, according to the notification of the Municipal Selection Commission, for the holding of the test.

At the MFMC in Fushë Kosovë, the complainant realized that a list with the names of the candidates and the points scored in the written test and the interview had been published. The complainant added that in the published list, the points scored in the written test were given close to her name, while in the interview points section, the note "*did not appear/come*" had been placed. She stated that she had not been notified at all about the verbal interview, although she had passed the written test. Hence, on August 29, 2022, she filed a complaint, through the postal service, with the Complaints Commission in the Municipality of Fushë Kosovë against the published list but never received any response.

The Municipality of Fushë Kosovë did not receive a response to two requests seeking information related to the complaint.

The failure to respond to the complaint, according to the assessment of the Ombudsperson, comes into contradiction with the principles of Law No. 05/L-031 on General Administrative Procedure, respectively with the principle of objectivity and impartiality and with the principle of legitimate and reasonable expectations, wherefrom derives the obligation for public administration bodies to act in an objective and impartial manner²⁸⁰ and that their actions must be consistent and respect the legitimate and reasonable expectations of persons.

The public body, which in this case is the Municipality of Fushë Kosovë (Complaints Commission), had not applied the administrative procedure, which is the basis for the activity of public bodies in administrative matters, and, consequently, the failure by the Municipality of Fushë Kosovë to respond to the complainant's complaint constitutes a violation of the

280 Law No. 05/L-031 on General Administrative Procedure, Article 7 and Article 8

complainant's right to a fair and impartial trial, as defined in Article 31, paragraph 1 of the Constitution and Article 6, paragraph 1 of the ECHR, which establishes the right to a fair trial.

The Ombudsperson draws attention to the fact that the aim of good administration of public administration bodies, among other things, should be the creation of good practices by promoting a harmonized and citizen-focused administrative culture, which learns from interaction with citizens.²⁸¹ Without prejudice to other processes related to the complainant's case, based on the analysis of the case, the Ombudsperson assesses that the Municipality of Fushë Kosovë (Complaints Commission) has not applied the administrative procedure, which represents the basis for the activity of public bodies in administrative matters. The principles, general rules, acceptance conditions, and the handling of citizens' complaints have not been respected; consequently, the municipality has not acted in accordance with Law No. 05/L-031 on General Administrative Procedure, and the failure to act pursuant to the legal provisions leads to a violation of human rights in the specific case of the complainant.

Through this opinion, the Ombudsperson draws attention to the constitutional and legal obligations of the authorities exercising legitimate power in the Republic of Kosovo that are obliged to respond to the Ombudsperson's requests and submit all documents and information sought in accordance with the law, within a reasonable time.

Freedom of Expression

Language in public discourse in relation to the obligations of the state for guaranteeing freedom of expression and preventing hate speech

The report aims to raise awareness among the public and institutions regarding international and domestic standards, the right to freedom of expression, and the concept of hate speech. It also aims to contribute to the understanding of the language discourse patterns used in social media and public communication in the country, including hate speech, discriminatory language, offensive language, and rhetoric that involves disagreement with certain ideas or opinions, challenging ideas or beliefs, rhetoric that involves non-violent negative actions or characterizations and insults, and specifications of inhuman characterization of the affected individual or group(s), as well as to increase the ability of society to react and develop narratives that promote human rights, diversity, and tolerance.

The report is based on monitoring, research, and analysis of data collected from parliamentary sessions, television debates, and social media comments for the period from 2020 to 2022 and aims to reflect the state of the language used in public communication discourse in Kosovo. The design of the data sets and the selection of the time frame were determined by the ultimate goal of the research: *to provide not only an updated and comprehensive overview of the different instances and groups that may be the target of hate speech in public discourse in Kosovo, but also of the potential instigators of hate (with or without intent).*

The report provides an overview of the analysis of public and media discourse by combining a quantitative and qualitative approach after reviewing transcripts of: 8 parliamentary sessions (January 2022–March 2022); 23 television debate shows broadcast online; 4 social media platforms; 43,511 comments; and 313 news posts on social networks. The research has found recurring patterns, such as the reasons and targets of the language used (political beliefs and political affiliation; ethnicity; religion; sex, gender, and sexual orientation); forms of expression (threats and curses; racial and ethnic insults; dehumanizing metaphors); as well as media discourse that also produces hateful comments by social media users; lack of moderation in the media that expose public opinion to the cases of hate speech.

281 European Code of Good Administrative Behaviour, adopted by the European Parliament in 2001

Attention has also been paid to the rhetorical discourse and language used towards LGBTI persons, the impact of public discourse, the agenda in main media and social media, as well as the reactions of public opinion in those respects.

Freedom of expression and hate speech represent complex issues in terms of how state authorities can and should balance their responsibility to respond swiftly and effectively in cases where it is identified that a particular expression may cause harm to legitimately protected goals. Hate speech in public discourse, in Europe generally, has been emphasized to a greater extent during the Covid-19 pandemic and raises the need for continuous work to monitor, prevent, and combat hate speech and other forms of expression both online and offline²⁸². Continuous work in this sense embodies a series of actions and activities, starting from awareness-raising campaigns in preschool institutions and beyond, the effectiveness of the response by the justice authorities, as well as a series of concrete actions and measures for combating discrimination on any basis, and all these actions and measures must be undertaken by public institutions in partnership and coordination with civil society in the country.

It is important to underline the sensitivity and complex challenge of striking a balance between freedom of expression, as a fundamental right in any democratic society, and defining its limits in relation to other rights. Striking a balance between freedom of expression and its limits is a continuing challenge even in the highest international institutions such as the European Court of Human Rights (ECtHR). Nevertheless, the determinations in the main international documents and especially in ECtHR jurisprudence have established a standard on guaranteeing freedom of expression and defining the necessary limits.²⁸³

The European Convention on Human Rights and Fundamental Freedoms (ECHR), in its Article 10, defines the protection of freedom of expression, freedom of opinion and expression of opinion (paragraph 1), but also prescribes the conditions for its restriction (paragraph 2). So, the freedom of expression as a concept implies a broader framework of rights that includes within it, rights such as: the freedom to hold opinions without interference (freedom of opinion), the freedom to seek, receive and share information and ideas (orally, in writing, in the form of art, through the media, including not only the content, but also the means of expression, etc.²⁸⁴). Freedom of expression is the freedom of everyone to express themselves, it is the right to speak, to be heard and to participate in political, artistic and social life.

A single and generally accepted opinion on the definition of hate speech does not exist, however, the European Court of Human Rights, in its jurisprudence, defines hate speech as “... all forms of expression that spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance ...”, while the European Commission against Racism and Intolerance (ECRI) defines forms of hate speech as follows: “all types of expression that incite, promote, spread or justify violence, hatred or discrimination against a person or group of persons, or that denigrates them, by reason of their real or attributed personal characteristics or status such as ‘race’, colour, language, religion, nationality, national or ethnic origin, age, disability, sex, gender identity and sexual orientation”.

Despite the lack of a unique and universally accepted definition, we encounter two elements that distinguish hate speech:

Targeting a group or individual as a member of a certain group based on physical, social, and

282 ECRI, Annual Report on ECRI's Activities, covering the period from 1 January to 31 December 2017, <https://rm.coe.int/annual-report-on-ecri-s-activities-covering-the-period-from-1-january-/16808c168b>

283 Report with recommendations of the Ombudsperson of Kosovo, Ex-officio 707/2017, related to the freedom of expression (media) and the safety of journalists, see <https://bit.ly/3RL8gDR>

284 Report of the former Ombudsperson, ex-officio no.707/2017, 2 November 2017, para.24, pg.5., see the link: <https://oik-rks.org/2017/11/02/raport-ex-officio-lidhur-me-lirine-e-shprehjes-dhe-sigurine-e-gazetareve/>

cultural characteristics, against whom that language is directed

The presence of a determining attribute that characterizes a target group such as: race, religion, ethnicity, nationality, sexual orientation, gender and other protected grounds, with content that expresses hatred, the intention to hurt or offend, as well as the public nature of the language

The Rabat Plan of Action²⁸⁵ helps define the limits of freedom of expression by assessing each case individually and on the basis of its merits as well as by taking into account: 1) *The social and political context*, 2) *The status of the speaker*, 3) *The intent*, 4) *The content and form of the speech*, 5) *The extent of its dissemination*, 6) *The likelihood of harm, including imminence*.

It is also necessary to assess, from the perspective of the case-law of the European Court of Human Rights, whether restrictions on freedom of expression are prescribed by law, pursue a legitimate aim and are necessary and proportionate to the aim pursued.²⁸⁶ Freedom of expression cannot be used to justify hate speech. Discourses that may be offensive must be distinguished from hate speech. The Committee of Ministers of the Council of Europe has described “hate speech” as “all forms of expressions that spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance.”²⁸⁷

Therefore, hate speech is closely related to discrimination, as an expression directed at a group or individual, which has a characteristic that is included in the protected grounds under the legislation on protection from discrimination. In many cases, hate speech is a form of discrimination, and in these cases the positive obligation of the state to prevent it should come into consideration in order to protect the right to equal treatment and non-discrimination.

Based on the monitoring of 9 parliamentary sessions in the Assembly of Kosovo, within the period January 2020 – March 2022, the Ombudsperson finds that no direct incitement to hatred has been encountered. However, in these parliamentary sessions, other expressions of the language used were encountered, which in the findings of this report have been assessed as mild hate speech. The Ombudsperson also finds that the cases of hate speech encountered in the analysis of parliamentary sessions do not simply say that someone should be hated but provide support for the alleged discriminatory hatred. Therefore, hate speech is not necessarily manifested through expressions of hatred but can be disguised in statements that at first glance may seem reasonable or normal.

Findings from media monitoring and the impact on the language used by followers on the social network

Based on the monitoring of 23 television debate shows broadcast also on online media, in three different media, and from the comments generated by them from the followers on social networks, the Ombudsperson finds that hate speech is quite distinct. The Ombudsperson emphasizes that comments containing hate speech and other expressions are not only the result of other comments in the live broadcast of the debate on Facebook, they are directly related to the topic being debated by the guests on the television debate shows.

Also, based on usernames and profile photos on Facebook, considering that the profiles were not verified in relation to gender and whether the profiles were fake or real, the research finds that 86% of comments containing hate speech and other expressions were posted by men, while 9.3% of them were posted by women, while 5% of the profiles were not identified.

Whereas, as regards the targets who were specifically targeted by hate speech comments,

285 https://www.ohchr.org/sites/default/files/Rabat_draft_outcome.pdf

286 <https://rm.coe.int/handbook-2/16806fc139>

287 <https://rm.coe.int/1680505d5b>

the research finds that the majority of these comments had the tendency to be aimed at public figures (political leaders, politicians in general, or analysts invited to television debates). In general, hate speech targets specific individuals in 8 out of 10 cases and groups of people in 3 out of 10 cases.

In terms of quantitative relevance within the data corpus, the most numerous comments are those targeting political beliefs, followed by comments regarding negatively connoted professions and moral traits categorized as other, then disability, dehumanizing metaphors, ethnicity, sexuality, cursing, and religious belief.

Also, if harsh/inappropriate language is used in television debates, viewers are more likely to post hate comments on Facebook pages when the debate is broadcast live. Whereas, when the main topic in the television debate was the discussion in the parliamentary session of 16 March 2022, regarding the Draft Civil Code (this parliamentary discussion was the main topic on the TV show *Debat Plus*, there was no debate in this respect on *Pressing*, while *Rubikon* was not broadcast on the mentioned date), the comments containing hate speech related to the topic of the debate on this show in most cases were related to gender and sexual orientation. Most of the comments were directed at the guests of the television debates who were in favour of modifying the Civil Code and contained cases of language involving terms with pejorative/derogatory connotations.

Findings related to the language used on social media platforms

To explore examples of hate speech comments on social media platforms, comments were collected from the Facebook pages of four online media – “Gazeta Express”, “Telegrafi”, “IndeksOnline”, and “Kosovo Online”. The selection of these four online media outlets was made based on the number of followers.

The research finds that 1 (one) comment in every 15 (fifteen) comments contains hate speech. Most comments fall into three categories: dehumanizing metaphors, political beliefs, and disabilities. There have been comments in which users have used metaphors related to animals, plant metaphors, etc. Political beliefs and disabilities are equally and widely targeted; sexuality and ethnicity are frequently targeted, while cursing or religion can barely be categorized. Hate speech related to sexuality was found in 10% of comments. This data was particularly evident in comments following the parliamentary session of March 16, 2022, when the issue of same-sex marriage was discussed. Overall, comments containing hate speech targeted specific individuals in 6 out of 10 cases and groups of people in 3 out of 10 cases.

If we compare the selected web pages (portals) of the four online media on Facebook, we notice a significant difference in the objectives of the comments on the Facebook page in the Serbian-language online media compared to the other three portals. On the Serbian-language portal, almost 40% of the comments were aimed at one group, which is almost double the figure shown by the analysis of the three Albanian-language media. This result can be explained by the fact that the main topic of the comments on the Facebook page in the Serbian-language media is related to ethnic relations between Albanians and Serbs.

The largest number of comments containing hate speech, with sexuality as the dominant category, was identified in citizens’ comments on media news on March 16, 2022, which involved the topic of same- sex marriage. (25% of hate speech comments).

Findings with regard to discussions on the issue of the North and interethnic relations

When the issue of the North was discussed in the Assembly (extension of the legitimacy of the state of Kosovo to the northern municipalities – October 2021), and was also reflected in the language of comments on media’s Facebook pages. Several ethnic comments were noted from both the Albanian and Serbian communities, and especially on the Facebook page

of the Serbian-language online medium, “where around 20% of the hate speech comments concerned interethnic relations. Most of these hate speech comments contained derogatory terms for Kosovo Albanians.

Unlike the observation of ethnic hate speech seen on the Facebook pages of Albanian-speaking online media, where derogatory adjectives for Serbs were used by Albanian ethnicity persons also when they intended to offend another person from the same ethnic group, this was not the case on the Facebook pages of Serbian-speaking online media, where ethnically connoted hate speech comments were aimed only at Albanians.

On the basis of the findings of this research and the requirements arising from the *Recommendation CM/ Rec (2022)161 of the Committee of Ministers to member states on combating hate speech*, the Ombudsperson assesses that more work should be done on collaborative initiatives, which should more broadly include the third sector, including independent institutions, NGOs, civil society organizations; professional bodies; social media platforms that may need to be challenged more effectively for their active engagement in secondary markets, and should aim to better combat hate speech and hate crime phenomena by strengthening anti-discrimination legislation, ensuring effective codes of conduct and promoting prevention through solid ongoing awareness-raising campaigns in education, as well as in the public and media sectors, by concluding as follows:

The Ombudsperson notes that the Assembly of Kosovo has not issued a Code of Conduct for deputies, as required by the Rules of Procedure of the Assembly of the Republic of Kosovo. The Ombudsperson finds that it is necessary for the Assembly of Kosovo to have issued a Code of Conduct for deputies in order to sanction the use of inappropriate, offensive, denigrating, humiliating expressions and hate speech.

Given the complexity of the thematics and the comprehensive approach to preventing hate speech, as well as the importance of Freedom of Expression and its restrictions in cases where a certain expression may cause harm to legitimately protected goals, the Ombudsperson notes that the engagement of educational institutions is necessary for creating educational programs for pupils and students to learn about the consequences of the use of hate speech in both the public and private sectors. This is important in particular due to the widespread use of social media and the lack of understanding that actions and language used on social networks can bear as much responsibility as physical actions. In order to have the society educated in terms of media, it is important for students to learn about the media, as an audience and as a user, including diversity, social tolerance, and non-discrimination at all levels of education.

Also, in view of the complexity of the thematics and the comprehensive approach to preventing hate speech, as well as the importance of Freedom of Expression and its restrictions in cases where a certain expression may cause harm to legitimately protected goals, the prosecutors and judges must be up to date and follow the developments in the jurisprudence of the ECtHR when faced with the handling (prosecution/defense/adjudication) of hate crime cases in order to ensure a human rights-based approach. The Ombudsperson finds that in the training programs of the Academy of Justice, there are no special modules that are included in the continuous training program and that address issues relating to hate speech and the case law of the ECtHR with regard to this topic.

The Ombudsperson notes that the language used in public debates and political speeches by politicians greatly influence the general public and that this determines the thematics and the tone of public discourse. In this respect, the Ombudsperson considers important the active role and responsibility of the Central Electoral Commission in supervising the implementation and observance of the Code of Conduct by political entities, their supporters, and candidates, in order to specifically respect the prohibition of the use of hate speech.

For the time period examined in this report, the Ombudsperson finds that there is a lack of moderation in the media that expose public opinion to the cases of hate speech. The Ombudsperson also notes that the IMC has not shown real-time reaction in the continuous monitoring of hate speech. The Ombudsperson considers the engagement of the IMC in ongoing campaigns against hate speech to be important, including the manner in which complaints can be made, as well as cooperation with the media and journalists to prevent hate speech and respond in real time and promptly against hate speech.

The Ombudsperson notes that the general public needs to be more aware of the consequences of hate speech and its impact on society. Therefore, the Ombudsperson considers it critical that all pillars of governance in the country work together, including professional organizations as well as non-governmental organizations, to raise awareness, identify best practices, condemn acts of hate speech or hate crime, and reaffirm the principles of democracy, rule of law, equality, and non-discrimination.

The Ombudsperson also considers the continuous engagement of self-regulatory bodies such as the PCK to be very important in terms of education campaigns regarding complaints concerning hate speech, cooperation with CSOs to support complainants in filing complaints against hate speech, and working with media outlets to allow comments on their websites but requiring them to filter such comments instead of prohibiting them completely. Media and social media platforms should engage in reviewing their codes of conduct to encourage content moderation and – where necessary – removal of hateful content, in establishing processes for prompt follow-up on user complaints when hate speech content is flagged, while not leaving aside the provision of professional trainings on hate speech for their employees, and facilitate the distribution of awareness-raising campaigns to prevent hate speech.

With this report, the Ombudsperson recommended to the Assembly of the Republic of Kosovo to issue a Code of Conduct, as provided for by Article 129 of the Rules of Procedure of the Assembly, which, among other things, will determine the imposition of measures against deputies who do not adhere to the Code of Conduct in relation to the language used while exercising the function of a deputy, as well as create a mechanism for investigating complaints against deputies who do not adhere to the Code of Conduct.

He recommended that the Government of the Republic of Kosovo draft a special program for the general public on education and prevention of the use of inappropriate and hate speech and its consequences, and through its mechanisms, continuously organize awareness-raising campaigns for the general public on education and prevention of the use of inappropriate and hate speech, in accordance with the drafted program.

The Ministry of Education, Science, Technology and Innovation was recommended to develop a national strategy on media education at the pre-university and university levels, as well as to include Media Education as a compulsory course in the school curricula of pre-university education.

The Central Election Commission was recommended to, in accordance with the legal obligations of the Law on General Elections, adopt guidelines for political entities, with the aim of preventing hate speech; to create an internal and efficient mechanism for monitoring and supervising compliance with the Code of Conduct of political entities, their supporters, and candidates, specifically for prohibiting the use of hate speech; To harmonize the content of the form on the registration of political parties in the same way as was also approved the form for the Certification of Political Entities, in accordance with the obligations set out in the Law on General Elections for implementing the code of conduct and prohibiting language that incites hatred and discrimination.

He recommended that the Academy of Justice include the addressing of hate speech and the case law of the ECtHR in respect of this topic in a special module of the continuous training

program for judges and prosecutors of the Republic of Kosovo.

He recommended that the Kosovo Bar Association provide trainings on the prohibition of the use of hate speech as well as training on the prosecution/defense/adjudication of hate crime cases in order for them to be able to implement the jurisprudence of the ECtHR.

To the Independent Media Commission, he recommended the establishment of mechanisms for real-time monitoring and response of the audio-visual media in the country, with the aim of preventing inappropriate and hate speech; to continuously organize awareness-raising campaigns for media workers and the general public on education and prevention of the use of inappropriate and hate speech.

Freedom of Association

Opinion with respect to allegations for violation of freedom of association and exercise of trade union activity as well as discrimination due to trade union engagement

This opinion reflects the positions of the Ombudsperson with respect to the violation of the freedom of association and organization of trade union activity of employees of Limak Kosovo International Airport J.S.C. “Adem Jashari” (Limak - Prishtina International Airport “Adem Jashari” – hereinafter referred to as: PIA).

The opinion is based on the complaint received by the president of the “Adem Jashari” International Airport Trade Union Association, with allegations about the dismissal of 51 PIA employees following the strike held in 2019, organized with a request for better working conditions, against denying the access of the union’s president to the offices, union files, and the exercise of union activity, as well as for allegations about the continuous violation of the rights stemming from the employment relationship of PIA employees.

The opinion brings to the attention of the competent authorities the need to take measures for ensuring and supervising the implementation of the legislation in force, in particular the Law on Labour and the Law on Organizing Trade Union, guaranteeing the protection of rights deriving from the employment relationship, and prohibiting discrimination against PIA employees on the ground of union membership and engagement in union activities.

Having analyzed the legal basis, facts, and claims presented in this case, the Ombudsperson brings to attention that freedom of association is a human right protected and guaranteed by international and domestic acts and, at the same time, is an indicator of the level of functioning of democracy in a contemporary society. This is due to the fact that trade unions have an important role in representing the rights of workers, listening to their demands, and promoting the protection of fundamental rights stemming from the employment relationship.

Membership in a trade union and engagement in trade union activities should not affect or reduce the level of enjoyment of fundamental rights stemming from the employment relationship, nor can they be factors for unequal treatment in relation to others. As it is presented above, the legal framework in force provides sufficient space and guaranteed rights to workers for the exercise of trade union activities. Legal provisions also oblige the employer to create conditions for the exercise of trade union activities and at the same time prohibit the infringement of rights from the employment relationship or any discrimination on the basis of association in a trade union.

The ECtHR, through its case law, by proclaiming the importance of guaranteeing and respecting freedom of association, has emphasized the prohibition of any discrimination in the enjoyment of fundamental rights on this basis. The ECtHR, in the case of *Sanchez Navajas v. Spain*, emphasized that workers’ representatives must, as a rule, and within certain limits,

enjoy appropriate facilities that enable them to perform their trade union functions promptly and effectively.

According to the Venice Commission Guidelines on freedom of association: *“Freedom of association is a fundamental human right that is crucial to the functioning of a democracy. It constitutes an essential condition for the exercise of other human rights.”*

The Ombudsperson assesses that the responsible institutions should pay due attention to supervising the full compliance with the provisions of the Law on Labour and the Law on Organizing Trade Union in order to protect the rights stemming from the employment relationship and the organization of trade union activity of the employees of the “Adem Jashari” Prishtina International Airport. In this respect, the Ombudsperson considers that the authorities should take the necessary measures to guarantee the exercise of trade union activity by the President of the PIA Trade Union Association and airport employees, without any impact on unequal treatment in relation to workers who are not members of the trade union. He also considers it necessary to find modalities for communication and allow the exercise of trade union activity in the premises reserved for the Trade Union by the “Adem Jashari” Prishtina International Airport.

Protection of Property

Opinion on the process of expropriation in the municipalities of Leposaviq and Zubin Potok of the Republic of Kosovo

Through this Opinion, the Ombudsperson will provide his stance regarding the process of expropriation in light of constitutional and legal guarantees with regard to the protection of property rights. The Opinion aims to reflect the issue of expropriation of immovable properties in the municipalities of Leposaviq and Zubin Potok, in view of the legal provisions concerning the expropriation procedures and the declaration as special public interest of immovable properties of owners and holders of interest related to “Infrastructure Projects of Public Interest” and the protection of human rights.

Given the fact that a court procedure has been initiated on this issue, the Ombudsperson will not deal with the merited assessment but will only present his views in terms of the protection of human rights.

The Ombudsperson assesses that the Constitution of the Republic of Kosovo has established provisions according to which property is guaranteed and that expropriation can be carried out if it is authorized by law, is necessary or appropriate for achieving a public purpose, or supporting the public interest.

The Government and the MESPI conducted procedural actions for expropriation in the municipalities of Leposaviq and Zubin Potok by issuing decisions declaring those areas as areas of special interest, adopting other accompanying decisions, holding public hearings, and issuing preliminary and final decisions.

The Ombudsperson considers it important that the conduction of expropriation procedures be carried out in accordance with the provisions set out in Law No. 03/L-139 on Expropriation of Immovable Property so that the owners whose properties are expropriated have the opportunity to achieve real compensation according to the assessments of the competent bodies of the Republic of Kosovo. Taking into consideration the provisions in Article 4, paragraph 1, of the Law on the Expropriation of Immovable Property, he considers that for the successful realization of an expropriation process, it is necessary to meet the conditions, such as: the legitimate public purpose, necessity, non-discrimination, and the expropriating authority. The decisions approved by the Government have not provided sufficient clarifications in order to understand exactly what will be built within the framework of infrastructure projects of public

interest, for which expropriation is requested.

The lack of sufficient clarification also makes the legitimate public purpose, which is the first condition that must be met in an expropriation situation, unclear. As a result of the ambiguity of the legitimate public purpose, the assessment of the fulfilment of the condition of necessity and non-discrimination in the expropriation process is also unclear. Therefore, in this case, the Ombudsperson draws the attention of the institutions of the Republic of Kosovo that it is the obligation of state bodies, in addition to planned projects, to implement procedures in accordance with legal provisions, in order to protect human rights, guaranteed by the Constitution of the Republic of Kosovo, international instruments, and domestic legislation that regulates human rights throughout the expropriation process.

With regard to the objection to the expropriation process by the complainants, the Ombudsperson considers that in no case can the authorization of the institutions to carry out the expropriation be disputed, because such authorization is defined in the provisions of the Constitution of the Republic of Kosovo, and the implementation of this process is also defined in the provisions of the Law on Expropriation of Immovable Property.

Based on the complainants' claims that, even though the representatives of the institutions did not make the legitimate purpose of the expropriation entirely clear, they understood that it had to do with the construction of a police base, the Ombudsperson considers that in circumstances where we are dealing with general security, the existence of a legitimate purpose cannot be disputed. Hence, in the present case, the Ombudsperson emphasizes that the actions of the institutions of the Republic of Kosovo, when aimed at strengthening general security, consume the legitimate purpose of the expropriation, which in this case has not been made sufficiently clear in the Government's decisions on expropriation.

The Ombudsperson considers that the institutions of the Republic of Kosovo, according to the Constitution of the Republic of Kosovo, have authorizations to carry out the expropriation process if this expropriation is authorized by law and is necessary or appropriate for achieving a public purpose or supporting the public interest. In this respect, the Ombudsperson emphasizes that expropriation cannot be disputed; however, procedural actions, which must be in accordance with the provisions of the Law on Expropriation of Immovable Property, can be disputed.

The Ombudsperson considers that the institutions of the Republic of Kosovo have a positive obligation to undertake all actions towards clarifying the legitimate public purpose so that the intervention in the owners' properties, for the purposes of expropriation be clearly visible and permissible. It is also an obligation of the institutions of the Republic of Kosovo to undertake all procedural actions in accordance with the provisions of the Law on Expropriation of Immovable Property so that, in addition to the development of Government projects, the property rights of the owners, whose properties are expropriated, are also protected. Only in this way do the country's institutions fulfil their mission in exercising public authorizations towards the provision of services to citizens while preserving their rights guaranteed by the Constitution of the Republic of Kosovo, international instruments, and legislation in force.

Right to Education

Providing safety for the smooth running of the learning process at the primary and lower secondary school in the village of Livoç

The case was investigated *ex-officio* based on information received that in a classroom of the Primary and Lower Secondary School (PLSS) “Dëshmorët e Kombit” in the village of Livoç i Ulët, Municipality of Gjilan, pieces of lime have fallen from the ceiling, thus endangering the lives and health of students and school staff.

The Ombudsperson through this report recalls that the Constitution of the Republic of Kosovo guarantees that every individual enjoys the right to life (Article 25, paragraph 1), it also guarantees that children enjoy the right to protection and care necessary for their well-being (Article 50, paragraph 1), as well as the right to free mandatory education, funded by public funds (Article 47, paragraph 1), therefore the Constitution expressly guarantees the rights of children and imposes legal obligations on state institutions to respect, protect and fulfil these rights .

The Convention on the Rights of the Child, which is an integral part of the country’s Constitution, in Article 3, paragraph 1, stipulates: *“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”* The Convention also stipulates that States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health [...] (Article 24).

Taking into consideration that a longer period of time is needed until the construction of the new school building, in order not to endanger the lives and health of children and school staff during this period, the responsible authorities must find a solution in order to guarantee a safe and secure environment for students and staff during their stay at the school, as well as to guarantee effective care for children, whose health, safety and well-being is at risk.

In the opinion of the Ombudsperson, the continuation of the learning process in the building of the PLSS “Dëshmorët e Kombit” in the village of Livoç i Ulët, under these conditions, poses a risk to the life, health, and well-being of students and school staff; therefore, the responsible institutions should treat the said issue as a priority. Delays in finding a solution are contrary to the spirit of the above-mentioned provisions, which guarantee the rights of children and the obligations of the state to provide and protect them. For this reason, through this report, the Mayor of Gjilan and the Municipal Directorate of Education in Gjilan were recommended to undertake all necessary measures without further delay to provide all children with a healthy, safe, and suitable school environment, according to the norms and standards that enable quality learning.

Inclusion of applicable human rights standards in the upper secondary education textbooks in Kosovo

Given that the education system in general, specifically upper secondary education, is the most comprehensive and determining mechanism in educating students, the consideration of human rights standards and their inclusion in school textbooks are two very determining elements for educating students on human rights. Consequently, what and how students learn about human rights in school through school textbooks are determining for what students will think about human rights in the years to come.

The report was drafted by analyzing the content of 19 textbooks for grades 10, 11, and 12 of all secondary school branches, both for social-linguistic and natural sciences gymnasiums. Given that the purpose of the report is focused exclusively on the field of human rights, and

consequently the inquiry was conducted for textbooks of social sciences and humanities courses in general, such as mother language, literature, history, philosophy, logic, psychology, sociology, and civic education.

The report aims to assess the level of inclusion of standards that are currently being implemented in the field of human rights in upper secondary education textbooks in the education system in the Republic of Kosovo.

In public education systems, textbooks are the books with the greatest and most widespread influence on a country's society. They convey the spirit of society's value systems and cultural traditions, but also the vision of the respective state for its citizens. Both during the formal education of children in primary education and in upper secondary education, the educational role and educational influence of textbooks are comprehensive and highly determining for the cultural formation of young people throughout their lives. Excluding the professional knowledge acquired later and the knowledge in the fields of study of those who pursue university studies, most students generally do not exceed or replace or supplement their basic knowledge beyond the knowledge acquired during the primary and secondary school education. What they read, what they learn, and what students are asked to think about in school is determinant for their cultural and civic formation. For this reason, the design of programs and curricula, based on which textbooks are drafted, also reveals the vision of state institutions for their society. Textbooks in general, especially those in social fields, reflect the community's perception about itself and the hierarchy of its cultural and human values. Consequently, textbooks are always a unique corpus of books whereby state authorities construct the collective identities of society and pave the suggested way for people to walk. Some of the myths most embedded in the collective consciousness of communities and societies are constructs produced and cultivated precisely by textbooks.²⁸⁸

This report is a continuation of a similar previous report by the Ombudsperson Institution, which focused on the presence and use of hate speech in the lower education textbooks in Kosovo.²⁸⁹ Unlike it, this report was drafted by researching the inclusion of applicable standards in the field of human rights in upper secondary education textbooks in Kosovo. Moreover, this report is focused on researching the level of inclusion of standards in the field of human rights in upper secondary education textbooks in the public school system in the Republic of Kosovo.

Starting from the initial idea that human rights are addressable as a field but also vulnerable in terms of how people speak and write about them, mainly within the framework of school courses from the fields of social sciences, languages, and humanities, the selected sample of textbooks through which this report was drafted is almost total. To form this sample, all school courses from the social sciences, languages, and humanities were included, which are eight in total: Albanian language, Literature, History, Philosophy, Logic, Sociology, Psychology, and Civic Education. Further, the sample of textbooks through which this report was drafted consists of three textbooks from Albanian Language, four from Literature, three from History, two from the Philosophy and Logic course, two from Sociology, two from Psychology, and three from the Civic Education course.

The Ombudsperson, based on the assessment and analysis of upper secondary education textbooks, finds that the overall level of textbooks in the upper secondary education system in Kosovo, with respect to the field of human rights, is satisfactory, but there is ample space

288 Durim Abdullahu, *Myths in Kosovar Textbooks: History in the Service of Identity Construction*, in c. Lichnofsky, E. Pndelejmoni, D. Stojanov, *Myths and Mythical Spaces: Conditions and Challenges for History Textbooks in Albania and South-Eastern Europe*, Gottingen: V&R Press, 2018, pgs. 34-55.

289 <https://oik-rks.org/en/2023/08/11/ombudspersons-ex-officio-report-no-1472021-hate-speech-in-primary-education-school-textbooks-in-kosovo/>

for improvement and supplementation, which should start from the curricula and then reflect on the teaching units within the textbooks. Based on the assessment and analysis of upper secondary education textbooks, the Ombudsperson finds that the textbooks of the Albanian Language course and those of the Literature course, for grades 10, 11, and 12, do not have content that would be specifically problematic in respect of the field of human rights.

Most of the findings of this report, namely the textual parts containing problematic issues in relation to human rights, are evidenced in the textbooks of the Civic Education, History, Sociology, and Psychology courses, since they have more teaching units with content that pertains to the field of human rights. Based on the findings from the analysis of upper secondary education textbooks, it results that the common denominator of the findings of this report, which is derived from the cases listed in it, can be summarized in two points, which can also be read as two remarks: inadequate use of professional notions from the fields of human rights, namely the non-unification of terminology, namely the uses with several different meanings and connotations of the professional vocabulary of the field of human rights, and insufficient elaboration and few illustrative examples on the forms of human rights violations and protection.

Through this report, the Ombudsperson recommended to the Ministry of Education, Science, Technology and Innovation to unify the terminological language, namely the use of key terms and concepts, which are used in the dictionaries of sociology, psychology, and civic education, in relation to the field of human rights. To have them elaborated as clearly as possible, with additional examples and explanations, also in the form of specific dictionaries with new words for students, and to adapt the examples to the social and cultural contexts of Kosovo society, so that the phenomena and terms are clear, comprehensible, and leave no space for misunderstanding by students; Based on the findings of this report, measures are to be taken to eliminate all words or terms, sentences, or paragraphs with inappropriate content that contain ideas or that promote and cultivate ideas that go against the spirit of recognition and respect for the fields of human rights. In the curriculum for the History course textbook for the 12th grade, which includes lessons from modern and contemporary history, separate teaching units should be defined about the history of human rights; about the social movements of trade unions that have advocated for workers' rights; about the waves of feminism that have engaged in women's rights and gender equality; about international conventions, resolutions, and other relevant documents on human rights; It is important that human rights violations during the war in Kosovo, which refer to crimes committed during it, crimes against humanity, and genocide acts, be reflected in the courses of History and Civic Education. This is to be done because one of the key areas for human rights is that related to war crimes and crimes against humanity, including genocide, sanctioned in particular by the Convention on the Prevention and Punishment of the Crime of Genocide (1948) and the Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949).

Right to Work and Exercise Profession

Opinion with respect to the dismissal of several officials of the Ministry of Foreign Affairs and Diaspora

Through this opinion, the Ombudsperson provides his stance with regard to the termination of the employment relationship of several officials of the Ministry of Foreign Affairs and Diaspora in light of constitutional and legal guarantees concerning fundamental human rights and freedoms.

Considering the fact that the complainants are already using legal remedies for the issues raised, namely, they are undergoing judicial proceedings, the Ombudsperson will not deal with the merited assessment of the decisions whereby the complainants' employment relationship was terminated, but rather will provide his assessment with regard to the aspects of guaranteed freedoms and rights, such as the right to exercise profession, legal certainty as an important element of the rule of law, legitimate expectations, and respect for legal procedures in any case that affects, limits, or denies the rights guaranteed by the Constitution or other acts in force in the Republic of Kosovo.

The Ombudsperson considers that the concept of legitimate and reasonable expectation in the protection of subjective rights is a comprehensive concept of interpretation in international case law. According to the ECtHR (see *the cases Kopecky v. Slovakia, Judgment of 28 September 2004, § 45-52; Gratzinger and Gratzingerova v. the Czech Republic (dec.), no. 39794/98, § 73, ECHR 2002-VII*), the "legitimate expectation" must be of a concrete nature and be based on legal provisions and legal acts. In the present case, the legitimate expectation is reflected in the fact that dismissal from work in the civil service requires acting in accordance with the provisions of the Law on Civil Service and the circumstances specified in this law. Acting without being based on the Law on Civil Service and without the circumstances set out in this law being met contradicts the concept of legitimate and reasonable expectations and the concept of legal certainty.

Furthermore, the Ombudsperson considers that legitimate and reasonable expectations are inherent to the concept of legal certainty and that both concepts cannot be interpreted separately from each other. In this respect, the Ombudsperson emphasizes that the concept of legal certainty in this case implies the fact that the institution must take concrete actions based on legal provisions that have regulated the issue in question in a clear manner.

The Ombudsperson considers that the issuance of decisions to dismiss officials from employment should bear in them the spirit of the rule of law and be in accordance with the concept of legitimate and reasonable expectations and legal certainty. Therefore, the Ombudsperson assesses that in the specific case the decisions of the MFAD do not appear to reflect the spirit of the rule of law and are also not in accordance with the concept of legitimate and reasonable expectations and legal certainty.

Rights of Children

Unequal treatment of the child with a disability related to the right to preschool education

The report was drafted based on an individual complaint and aims to draw the attention of the Municipality of Fushë Kosovë to the violation of human rights, namely the unequal treatment of a child with a disability in accessing preschool education and through recommendations requests from the Municipality of Fushë Kosovë to create equal opportunities for children with disabilities by securing a place in the preschool institution.

In her complaint, the complainant claims that her son was part of the A-Z kindergarten for two months, until he was removed with the excuse that because of him, other children would also fall behind.

She claims that she has repeatedly requested the enrolment of her child in several private and public kindergartens in the municipality of Fushë Kosovë, but none of them gave her an answer. In some of them, she was even asked to hire paid assistants, with the reasoning that working with her child takes more time and energy than with other children. She also addressed the Municipality of Fushë Kosovë – MED several times, but never received a response.

In communication with the Ombudsperson, the Mayor of the Municipality of Fushë Kosovë informed that the Preschool Institution “Gëzimi Ynë” was the only public kindergarten in the municipality of Fushë Kosovë. Further, in his response, he emphasized that the large number of children pertaining to the complainant’s age group (4-5 years old), including also the child’s disability, had made it impossible to admit the child to the kindergarten. The response also explained that based on the trend of the growth of the population and requests for enrolment in the preschool institution, the Municipality had opened a competition for vacant places, but for the 4-5 and 5-6-year-old age groups, there were no vacant places in the kindergarten.

The Ombudsperson, taking into consideration the fact that early childhood care is the first step of the lifelong learning process and is of great importance in the formation of the child’s personality, considers it necessary for institutions to create spaces and capacities so that children, without any difference, have easy and effective access to the realization of this right. Numerous studies support the fact that this education helps children develop the potential of their best abilities and contributes to their well-being.²⁹⁰ Also, healthy development in the early years enables children, among other things, to build the brain blocks for academic achievement, responsible citizenship, healthy life, and successful parenting for the next generation.

The European Union (EU) also notes that participation in early childhood education and care has multiple individual and collective benefits since it contributes to better outcomes in education and the labour market and creates a more inclusive society. Children who attended early childhood education for more than one year performed better in language and mathematics tests, as well as in the Programme for International Student Assessment (PISA) tests. Participation in quality early childhood education and care has also been shown to be an important factor in preventing early school leaving.²⁹¹

The EU Commission has adopted an important recommendation concerning integrated child protection systems with the aim of developing and strengthening general approaches to child protection. Among other things, this recommendation calls on Member States to create a safe and inclusive environment in education, including early childhood education and care and in training, by combating discrimination and responding to the specific vulnerabilities of different groups of children.²⁹²

The Ombudsperson has noted the low inclusion of children with disabilities in the education system in Kosovo also in his previous *ex-officio* Report regarding the approximation of the provisions of the general pre-university education system of Kosovo with the rights of children in education.²⁹³ In this regard, the Ombudsperson has recommended to all municipalities of

290 <http://library.fes.de/pdf-files/bueros/kosovo/16274-20201022.pdf>

291 Council Recommendation of May 22, 2019 on High-Quality Early Childhood Education and Care Systems

292 [Commission Recommendation \(EU\) 2024/1238 of 23 April 2024 on developing and strengthening integrated child protection systems in the best interests of the child \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1238)

293 <https://oik-rks.org/en/2022/11/10/report-of-the-ombudsperson-ex-officio-no-3312022-with-regard-to-harmonization-of-the-provisions-of-general-pre-university-education-system-of-kosovo-with-the-rights-of->

the Republic of Kosovo, including the municipality of Fushë Kosovë, to prioritize and increase funding for the provision of preschool/pre-primary education in the municipality in order to extend preschool services to rural areas.

The Ombudsperson assesses that in this case the child's right to inclusion in a preschool institution, as a primary right of children's education, should be enabled by the relevant institutions so that children with disabilities are provided with the easiest and most effective access to the realization of this right.

The Ombudsperson notes that despite the fact that the Municipality of Fushë Kosovë currently does not possess sufficient capacity to include children with disabilities in preschool institutions, this represents the basis of discrimination in the right to pre-primary education, thereby violating the right of children with disabilities who are denied to enjoy the same rights as all other children.

Through this report, the Ombudsperson recommended to the Municipality of Fushë Kosovë that, by taking into consideration that preschool education is the first link in the education system and is implemented in preschool institutions, it take action to increase the infrastructure capacities of preschool institutions in the territory of the municipality, in order to ensure a comprehensive approach that will provide equal opportunities for all and will meet the specific needs and abilities of each child.

Denial of the right to education of children from the Roma, Ashkali, and Egyptian communities in Fushë Kosovë

The report was drafted based on the complaint submitted by the Technical Working Group for the Protection of Roma, Ashkali, and Egyptian Communities from Discrimination (hereinafter: the Technical Group). According to this complaint, among other things, it was stated that in October 2020, the Primary and Lower Secondary School "Selman Riza" in Fushë Kosovë had started organizing an alternative supplementary teaching process for the children of the Roma and Ashkali communities. The alternative teaching process that started in October 2020 was discontinued without warning, without an official decision or notification, and without achieving its goal. The justification that was given stated that there were no funds to cover the teaching staff and that they have received remarks from the auditor related to these issues. On 26.02.2021, the director of education in the Municipality of Fushë Kosovë, via an email sent, had stated that intensive/alternative teaching cannot be continued due to budget issues. For the time that the alternative teaching was held, from October 2020 to the beginning of 2021, the teaching process was attended by about 25 students, aged 9-13, members of the Roma, Ashkali, and Egyptian communities.

The Convention on the Rights of the Child (CRC), as the most important international instrument in the field of children's rights, has recommended the exercise of the right to education "*progressively and on the basis of equal opportunity*".²⁹⁴ The right to education is characterized as an "*empowerment right*". Such a right provides the individual with more control over the direction of his or her life, in particular control over the actions of the state towards the individual. In other words, the exercise of the right to education helps children to develop their personality, talents and mental and physical abilities to the fullest potential²⁹⁵, in order for them to experience the benefits of other rights.

The Law on Pre-University Education in the Republic of Kosovo²⁹⁶ regulates pre-university education and training from ISCED levels 0 to 4, including education and training for children

[children-in-education/](#)

294 CRC, Article 28

295 CRC, Article 29

296 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2770>

and adults obtaining qualifications at these levels. Moreover, Article 1, paragraph 2, of the LPUERK refers to the constitutional provision on the right to education by stating that the purpose of pre-university education and training includes the development of the personality, talents and mental and physical abilities of the pupil to his/her fullest potential. The same principle is reiterated in Article 3, paragraph 3, wherein is stated: *“It shall be the general duty of the Ministry, the municipalities, the educational and/or training institutions and all other bodies [...] to provide all pupils with equal rights to education, in accordance with their specific abilities and needs and to promote their educational and social development.”* Article 9 of this law also provides that primary and lower secondary education (ISCED levels 1 and 2) are mandatory education for children in Kosovo. Furthermore, Article 22, paragraph 4, of this law stipulates: *“The municipality shall ensure alternatives for education of pupils removed from school where the pupil was transferred, according to the provisions of this Law.”*

Referring to Article 22, paragraph 4, of the LPUERK, it results that the Municipality of Fushë Kosovë, in the concrete case and circumstances, must ensure, and it is its legal competence, to provide alternative education for the children of the Ashkali community, who are not attending the educational process. Therefore, in such circumstances, the MED in the Municipality of Fushë Kosovë has failed to provide alternative education for the children in question.

The Ombudsperson ascertains a violation of fundamental human rights and freedoms, namely the rights of children, since the relevant municipal authorities have not fulfilled their constitutional and legal obligations, nor the international standards applicable in the Republic of Kosovo, regarding the realization of the right to education of the Ashkali community in Fushë Kosovë. Public authorities are obliged to ensure equal opportunities for each child to receive education according to his/her abilities and special needs.

With this report, the Ombudsperson recommended to the Municipality of Fushë Kosovë to: undertake all necessary administrative and legal measures to enable these children to receive education based on their needs, by taking into account the best interests of the children, as well as to organize special curriculums for children who drop out of school or who have never attended school, or for children returning from a stay abroad, with the aim of integrating them into the national education system, in accordance with Article 22, paragraph 4, of the LPUERK and Article 37, paragraph 5, subparagraph 5.6, of the LCP.

Health and Social Protection

Collection and reporting of health data in the Republic of Kosovo

The report was initiated based on the discussions and information received at the roundtable organized by the Institution of Ombudsperson, with regard to the collection and reporting of data in the health sector. Discussions held by the participants of the roundtable in question pointed out that the collection and reporting of data in the health sector is deficient, while in cases where data are collected, they are often incomplete, insufficient, sometimes partial, or even unclear; a part of them are incompatible with the methodology and criteria used by KAS (which are necessary), in order for the data to be considered valid, reliable, and comparable.

The purpose of this Report is to draw the attention of responsible authorities to the existing problems concerning the collection and reporting of data in the health sector (public and private), as well as to emphasize the importance of the functionalization of the Unique and Integrated Health Information System (HIS). The treatment and presentation of the issues on which this Report is focused on is done from the perspective of the realization and protection of human rights and in function of fulfilling the role and supervisory mandate of the Ombudsperson.

Addressing this issue is also in line with the fulfillment of the Sustainable Development Goals

(SDGs) and the 2030 Agenda, with an emphasis on meeting the targets of Goal 3 – *Good Health and Well-being*, as well as relevant targets in *other Goals*, for which data reporting and collection in the health sector is important.

Based on the Resolution on the 2030 Agenda, the collection of data and disaggregated, qualitative, accessible, reliable, and timely data and information are essential for assessing the state of human rights and progress made. They serve to highlight inequalities, provide necessary information to decision-makers, promote and implement non-discriminatory laws and policies, prevent mismanagement and other legal violations, and ensure transparency and accountability.

The link between health data and human rights involves understanding how the collection, use, and protection of health data impact the realization and protection of fundamental human rights.

The right to health, non-discrimination, equality, access to information, good governance, transparency, accountability, public safety, privacy, confidentiality, etc., are essential to ensure that the collection and reporting of health data is linked with human rights principles and promotes a fair, ethical, and effective health care system.

Because the right to health is a broad and multidimensional concept, the assessment of the fulfilment of state obligations is also such and takes into account aspects that are considered prerequisites and criteria for guaranteeing, respecting, and protecting the right to health. Health data are a component whereby line institutions are held accountable for their engagement in health-related issues. The overview of health outcomes and access to services enables stakeholders to identify gaps, barriers, and inequalities, as well as the level of fulfilment of human rights obligations.

Moreover, the collection and reporting of health data enable responsible authorities to make evidence-based decisions. They also support the creation of policies and programs that address public health needs, reduce health inequalities, and ensure that resources are allocated effectively to provide benefits to all segments of the population.

Through comprehensive health data, the monitoring of health services and outcomes is made possible. In addition, health data can point out the specific needs and challenges faced by vulnerable or marginalized groups (people with disabilities, those living in poverty, etc.), as well as enable the identification of inequalities or potential discrimination. This is essential for addressing issues relating to the effective functioning of the system and ensuring that all individuals, regardless of their characteristics, are treated fairly and equally, thereby fulfilling the right to the highest attainable standard of health. In the context of public health emergencies, timely and accurate health data are essential for preventing and controlling the spread of diseases. They contribute to and support efforts to protect the right to health for all.

There are several components that states must take into consideration for realizing the right to health: The World Health Organization summarizes four essential²⁹⁷ components related to the right to health:

- availability (*refers to the need for a sufficient number of functional health facilities, goods, and services for all and can be measured through the analysis of data disaggregated by different strata, including by age, gender, location, and socio-economic status, and qualitative surveys to understand coverage gaps*).
- accessibility (*health facilities, goods, and services should be accessible to all. Accessibility has four dimensions: non-discrimination, physical accessibility, economic accessibility (affordability) and accessibility to information. This is particularly important for people with*

²⁹⁷ <https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health>

disabilities, who often face significant health barriers related to the inaccessibility of health services, facilities and information).

- *acceptability (relates to adherence to medical ethics, cultural appropriateness, and gender sensitivity. Acceptability requires that health facilities, goods, services, and programmes be people-centred and provide care for the specific needs of different population groups and comply with international medical ethics standards for confidentiality and informed consent).*
- *quality (as a key component of universal health coverage (UHC), is identified as being equivalent to fundamental determinants of health (e.g. safe potable water and sewerage), and requires that health facilities, goods and services are scientifically and medically approved. Quality health services should be: safe, effective, people-centred, timely, integrated, efficient, and equal (not varying due to age, gender, ethnicity, disability, geographical location and socio-economic status).*

In order to monitor the above-mentioned components and consequently the substantive realization of the right to health, it is essential for the state to have a system for collecting health data that fits to the characteristics of the established health system and the demographic, socio-economic specificities of the country.

Health data not only provide an overview of health *per se* but also provide indications of social and economic aspects within a geographical and demographic context, which in one way or another affect the enjoyment and respect of the right to health. As a continuous systematic process, data collection enables the analysis and interpretation of different types of information from reliable sources, thus building the basis for sustainable decision-making and in accordance with the needs and goals of better standards for all.

In this sense, data must be accurate and complete, collected and reported as such within the established time limits. Data, with emphasis on those from administrative sources in the health sector, must be disaggregated, according to general comparable bases, such as gender, age, residence, and other contextual characteristics, in the function of public health, as a general good, and consequently a prerequisite for individual health.

Disaggregated, qualitative, accessible, reliable and timely data are essential for assessing setbacks or progress in human rights, and specifically related to what this Report addresses, such data enable the assessment of setbacks or progress in terms of ensuring a healthy life and well-being for all.

In a general context, health data are essential for the realization and protection of human rights by ensuring that health systems are fair, inclusive, and responsive to the needs of each individual.

From this Report, it is understood that the HIS is a vital pillar that connects the components of the health sector. However, health data that are not collected according to the established standards are almost unusable. Data collection and reporting in the health sector remains unintegrated and scattered across systems that do not correspond. Unconnected functioning, without an integrated overview of data that would be transformed and serve as evidence and indicators for building policies and strategies in the health sector, results in setbacks in the provision of health services and the advancement of social welfare.

This system, which currently continues to function in a fragmented manner, needs to be put in order and provide an integrated overview of data, which would be transformed and serve as information and indicators for the building of policies and strategies in the health sector. An integrated health information system is essential for the provision of quality, coordinated, ethical, and effective care to patients.

The Ombudsperson recalls with concern the findings in the Country Report, 2023 and 2024, on health inequalities, life expectancy at birth, as the lowest in the region; non-communicable diseases (such as cardiovascular diseases and cancer) as the leading cause of death; around 33% of causes of death incorrectly reported; the lack of systematic screening for chronic conditions (such as diabetes and hypertension); [...] child mortality (16 children out of 1000 live births – three times higher than the EU average); high out-of-pocket payments (between 30%-40%), in the absence of having in place the health insurance scheme. Also, the assertions that *only demographic statistics are broadly in line with EU acts* represent an issue of concern, while it is noted that *public health and crime statistics are not yet in line with EU standards*.

The lack of an integrated system, with accurate and up-to-date data, affects communication between healthcare professionals, causes errors in documenting and processing patient information and negatively affects clinical decisions, and consequently leads to incorrect diagnoses and treatments of patients. Moreover, the Ombudsperson, by recalling that he also has a mandate to oversee the administrative components of the functioning of public authorities, draws attention to the fact that a non-functional and non-integrated HIS not only infringes the enjoyment of the right to health, but also diminishes the supervision of the performance of employees in the health sector, their capacities, the quality and quantity of work. It also makes it difficult to recognize the difficulties and requests of healthcare personnel. This causes negative chain consequences on the efficiency and effectiveness of the health sector, and leaves room for misadministration, mismanagement, violations of the code of ethics and professional healthcare protocols. Consequently, problems in the health system often move around in a vicious circle without an address of accountability, and creating legal uncertainty and a genuine lack of accountability in the health sector.

As regards the process of collection of health data, the Ombudsperson shares the concern of KAS in respect of the challenges that arise in the reporting of data by MoH and NIPHK, concerning: the codification of the cause of death, the registration of births and deaths, as well as health insurance in the country. The alleged delays in the publication of data by KAS, due to delays by NIPHK, clearly reveal the major problem of the lack of an integrated health information system and the loss of time when data continue to be filled out in and transferred manually from official forms according to the AI (relevant sheets).

The lack of a system that would integrate data on births and deaths related to the Civil Registration Agency (ARC) database is identified also by the Ombudsperson as a challenge and obstacle in the collection and reporting of complete, accurate, and timely data. As a result, obstacles to the functioning of health insurance are increased, and the segment related to social schemes and the well-being of their beneficiaries is also affected.

The Ombudsperson emphasizes that without a functional health information system, there is no accurate factual overview of the health of the population, there is no prevention and there can be no proper treatment, just as control over diseases cannot be achieved. Also, the lack of data creates barriers to accessibility, quality, and efficiency of services, makes it impossible to reflect progress or setbacks, thus causing a stratification of problems and a malfunctioning of the chain of responsible actors in the health sector.

It is also inevitable that there are evident setbacks in the collection and reporting of health data, with incomplete and late data, which sometimes are unclear, and a part of which are incompatible with the methodology and criteria required to be considered valid, reliable, and comparable.

Lack of HIS:

- impedes the realization of the right to health and well-being by leaving room for vulnerability,

unequal treatment, and discrimination;

- makes difficult the reflection of the assessment of the impact of the right to health and consequently prevents proper oversight of the health sector;
- prevents the implementation of the relevant Law on Health Insurance;
- complicates the process of drafting adequate health-related policies, as well as good governance of the health sector;
- complicates the performance appraisal and capacities of health employees, as well as their working conditions;
- becomes a barrier to the effectiveness and efficiency of the health system, as well as its management;
- hinders transparency and prevents full accountability of authorities and mechanisms in the health sector and those who oversee this sector.

In conclusion, the Ombudsperson recalls in this report that health and social protection qualifies as a positive right, which means that the state has the obligation to guarantee it within the maximum resources in its possession, within the development context. In this context, the right to health indicators and standards²⁹⁸ is a tool that supports the right to health and creates a prerequisite for the enjoyment of other rights that have common points with this right. The confusion and failure to fulfil the legal obligations of the mechanisms that should enable the functioning of an Integrated Health System lie at the core of a chain of issues that require priority attention and action by the responsible authorities, therefore the Ombudsperson recommended to the Ministry of Health to exercise its duties and obligations under the relevant normative framework, to make the Unique and Integrated Health Information System functional, urgently and entirely, at all levels and sectors of the health system.

Report with regard to the amendment of Regulation No. 02/2023 for the Allowance on Labour Market Conditions

The purpose of this report is to recommend to the Ministry of Finance, Labour and Transfers (hereinafter: MFLT) the amendment of Regulation (MFLT) No. 02/2023 for the Allowance on Labour Market Conditions, in order to harmonize the conditions and limitations for additional benefits, set out in Article 4, paragraph 4.3, and in Article 7, with the fundamental principles and competencies stemming from the Constitution of the Republic of Kosovo and Law No. 05/L -021 on Protection from Discrimination.

Regulation (MFLT) No. 02/2023 for the Allowance on Labour Market Conditions (hereinafter the Regulation) determines the professions, conditions and procedures for using the allowance on labour market conditions. According to Article 2: “ *This Regulation applies to employees in the public sector, whose wages are financed by and through the state budget, and who meet the criteria for benefiting from the allowance for labour market conditions according to the provisions of this Regulation.* ”

Article 4 of the Regulation defines five categories of deficit professions and occupations, for which compensation for labour market conditions can be obtained, while paragraph 4.3 of this Article defines an additional category “*professions from study programs financed or co-financed by the Government of the Republic of Kosovo*”, a category for which, in addition to the general conditions, Article 7 of the Regulation stipulates special conditions for additional

298 <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?>

benefits, which must be met by employees cumulatively, respectively (7.2.1) *“the study program of the second-level of higher education must be financed or co-financed by the Government of Kosovo”* and 7.2.2 *“to have completed second level higher education studies at universities abroad”*.

The Ombudsperson emphasizes that when determining discrimination, it is important that the unfavourable treatment of one/several certain person/s is compared with the treatment of another person in a similar situation who would be treated more favourably and that the only difference between them is the *“legally protected ground”*. It is therefore evident that in the case addressed by this report, a causal link has been established between the unfavourable treatment and the legally protected ground. To meet this criterion, it is sufficient to ask the question: would a certain person have been treated less favourably on any other ground if he/she had been in a different position? The provision that is applied does not necessarily have to refer specifically to a “protected ground.” It is sufficient that it refers to some sort of reason that is inherent to the protected ground.

From what has been said, it results that the beneficiaries of scholarship schemes from study programs financed or co-financed by the Government are in a comparable situation with other public servants, who belong to the same relevant professions and have the same educational level and who have financed their second-degree education themselves and have completed their studies at the same university or at other universities abroad or at universities within the country.

The Ombudsperson states that sub-legal acts, which also include regulations, are legal acts with lower legal force and must be in accordance with an act with higher legal force, namely the Constitution and the law. In this sense, the said Regulation must be in accordance with the aim and purpose of the law and specify only the provisions of the law from which it originates. It must represent a derivative and not an independent act; therefore, it cannot go beyond the provisions of the law but can only elaborate on it in more detail in accordance with its aim and purpose. Therefore, the introduction of *“professions from study programs financed by the Government of the Republic of Kosovo,”* defined under Article 4.4.3 of the Regulation, is considered contrary to the provisions of the relevant legislation and cannot be described as such because it is contrary to the principle of equal treatment.

According to the case law of the ECtHR: *“Difference in the treatment of persons in relevantly similar situations ... is discriminatory if it has no objective and reasonable justification; in other words, if it does not pursue a legitimate aim or if there is no reasonable relationship of proportionality between the means employed and the aim sought to be achieved.”* ECtHR, *Burden v. UK* [GC] (no. 13378/05), of April 29, 2008, p. 60. This means that, in order to justify a different treatment, it must be proved that a certain rule or practice pursues a legitimate aim and that the means of pursuing that aim (namely, the measure that led to the different treatment) are proportionate and necessary. In order to confirm whether the different treatment is proportionate, there must be a conviction that there is no other way of pursuing the aim that would interfere less with the right to equal treatment. In other words, placing an individual in an unfavourable position is the least possible harm necessary to achieve the desired goal, and the goal sought to be achieved is important enough to justify such a violation.

The Ombudsperson does not dispute the need for reform and raising the quality of public administration, in the sense of striving for a high level of academic training of staff and financing their training with access to quality education, which can be considered a legitimate aim, however, in this particular case, the MFLT does not have an objective and reasonable justification, which enables different treatment of public officials of the same profession and educational level, which is *a priori* based on the method of financing their training and the seat of the university, in which the second-cycle studies were completed, because these criteria

have no basis and are not directly related to the suitability or expertise to perform a certain job. Therefore, the criterion established in paragraph 4.3 of Article 4 and the conditions set out in Articles 7.2.1 and 7.2.2 of the Regulation cannot be considered a justified, necessary, and proportionate aim.

In this context, the Ombudsperson underlines the fact that the acquisition of knowledge during studies depends mainly on the personal abilities, skills and efforts of individuals and not on the manner of financing studies or on the assumption whether they have obtained knowledge and qualifications at universities in the country or abroad. This type of favouritism cannot be considered a measure proportional to the intended goal, because it directly undermines and affects the credibility of universities in the country and calls into question the quality of knowledge obtained in educational programs in Kosovo. This type of favouritism has no basis in the Law on Higher Education in the Republic of Kosovo (Article 7), which, with the establishment of the Kosovo Accreditation Agency, ensures that the standards and quality of higher education in Kosovo meet the requirements and expectations of the European Network for Quality Assurance in Higher Education (ENQA).

The Ombudsperson considers that diplomas obtained in higher education institutions issued by public universities in the Republic of Kosovo and in private universities accredited by the Kosovo Accreditation Agency are equally valid as diplomas obtained in universities abroad. On the other hand, diplomas obtained abroad are subject to the procedure of recognition and equivalence in the relevant institutions in accordance with the legal and sub-legal acts in force in the country; therefore, any diploma that successfully passes this procedure is considered equivalent to a diploma obtained in country universities. Therefore, the condition set out in point 7, paragraph 2.2, has no basis in the current legislation and cannot be considered to meet the constitutional and legal guarantee of equality, respect for human rights and freedoms, and the rule of law.

The Ombudsperson in this report finds that the Regulation (MFLT) 02/2023 for the Allowance on Labour Market Conditions, in Article 4. 4.3 and in Article 7, paragraph 2, points 2.1 and 2.2, with the conditions mentioned, in a comparable situation, places in an unequal and unfavourable position and treats less favourably civil servants of Kosovo, who, with the aim of a higher level of education, self-financed their studies abroad and completed them without financial support from the Government, or who have completed their studies and received relevant deficit qualifications in licensed public or private higher education institutions in the Republic of Kosovo. With this type of treatment, as already justified, there is direct and multiple discrimination, which is based on two grounds that interact with each other and as such are inseparable from each other, which infringes the principle of equal treatment.

The criteria set out in Article 4, paragraph 4, point 4.3, and Article 7, paragraph 2, points 2.1 and 2.2, of the MFLT Regulation No. 02/2023 for the Allowance on Labour Market Conditions are contrary to the Constitution, the current legislation (Law No. 08/ L-196 on Salaries in the Public Sector, Law No. 08/L-197 on Public Officials, Law No. 04/L-037 on Higher Education in the Republic of Kosovo, Law No.05/L -021 on Protection from Discrimination), and the European Convention on Human Rights, the principle of legality and the rule of law.

For this reason, it recommended to the Ministry of Finance, Labour and Transfers: to amend and supplement Regulation (MFLT) No. 02/2023 for the Allowance on Labour Market Conditions, so as to: 1. delete the provisions of Article 4, paragraph 4, point 4.3, and Article 7, paragraph 2, points 2.1 and 2.2; and 2. directly define deficit positions and rare jobs with the new provisions, which will treat all potential public administration officials in a comparable situation equally.

Obligations of the state for supporting and providing mental health services for persons over the age of 65 in the Republic of Kosovo

The report aims to analyze and assess the obligations and responsibilities of state institutions of the Republic of Kosovo in providing mental health services to persons over the age of 65. This analysis aims to shed light on key aspects of the availability, accessibility, and quality of these services, in full compliance with the Constitution of the Republic of Kosovo, the legislation in force, and international standards directly applicable in the Republic of Kosovo. The report aims to identify existing challenges and propose concrete recommendations for improving the provision of mental health services to persons over the age of 65 by ensuring equal access without discrimination for all.

The Institute of Forensic Psychiatry of Kosovo (hereinafter: IFPK) provides mental health services for persons with serious criminal offences without a specified age limit. The services that are provided there are of the closed type and involve a capacity of 36 beds. The treatment for the age group over 65 years old is the same as for all other age groups, so they do not have the possibility of services adapted to this age group. According to information received from the director, services for this age group are limited at the national level, since there is no geriatric ward²⁹⁹ and there are no social policies adapted to this age group. While the common mental health problems encountered in patients over 65 years old are: dementia, psychosomatic disorders and depression.

The Elderly and Dependent Persons Care House in Prishtina (hereinafter: EDPCH) provides residential accommodation to persons over the age of 65. The institution operates in accordance with the Administrative Instruction (MLSW) no. 10/2014, which sets out the criteria for the placement of residents in EDPCH and in community-based homes. The criteria for the admission of elderly persons to EDPCH include a good psychological state of the individuals, who must not have descendants (adopted or biological). However, in this case there is an exception since the presence of a married daughter (who lives in the spouse's family) is allowed to the elderly person. The assessment of the individual's psychological state is carried out by a neuropsychiatrist accredited by state institutions. According to the information received, around 70% of residents face mental health challenges, including depression, psychosomatic disorders, anxiety, etc. However, the staff of EDPCH face limitations in their opportunities for professional development due to various factors.

The Department of Social and Family Services (DSFS), among other responsibilities, is engaged in developing legislation and setting minimum standards for the inspection of social service providers. This department has formulated specific standards for social service providers targeting the over 65 age group, which include:

- a) *Minimum Standards for Institutional Care of the Elderly.*
- b) *Minimum Quality Standards for Social Services in Homes for the Elderly.*
- c) *Minimum Quality Standards for the Elderly in Community Homes.*

A key trend in the social services sector is the move towards decentralization of services. In this respect, community-based homes for the elderly have been established in various cities, such as: Istog, Skenderaj, Prishtina, Novobërdë and Graçanica. There are also two licensed private homes in Zahaç and Istog, as well as a non-governmental organization in Gjinoc that provide similar services. In addition, around 50 non-governmental organizations are licensed to provide direct in-house social care services, including material assistance to individuals who are unable to care for themselves, such as: the elderly and persons with disabilities.

²⁹⁹ Geriatrics is a field of medicine that deals with the clinical, preventive, and social aspects of diseases in the elderly, as well as their rehabilitation

The Directorate of Social Welfare in the Municipality of Prishtina (hereinafter: DSW), based on a cooperation agreement between the Ministry of Finance, Labour and Transfers and the Municipality of Prishtina, has assumed the competencies and responsibilities for managing the EDPCH. According to this agreement, the Municipality of Prishtina is obliged to admit residents also from other municipalities, which are outside its territorial jurisdiction. Also, the Municipality of Prishtina will implement the existing legislation on the functioning of the EDPCH, including the method of assessment and placement of residents in this institution, which means that the professional assessment is carried out by the central level. The DSW also runs two social centers for the elderly, with working hours from 8:00 to 16:00. The Municipality of Prishtina also allocates grants to the non-governmental sector, and there are currently several non-governmental organizations that provide services for the elderly, including psychological services.

The Centre on Aging, within the National Institute of Public Health of Kosovo (hereinafter: NIPHK). The Centre on Aging is engaged in the promotion and education related to the health of the elderly, as well as in the organization of activities that raise awareness of healthy aging. As a department within NIPHK, the Centre faces the challenge of the lack of a specific budget line for the implementation of its activities, where a large part of the activities are project-based.

The Centre for Integration and Rehabilitation of the Chronic Psychiatric Patients (hereinafter: CIRCPP) in Shtime provides treatment and rehabilitation of chronic psychiatric patients and has a mission to re-integrate and re-socialize them in the community. The criteria for admission of residents are based on the Administrative Instruction (MoH) no. 07/2009 for Professional Services of Mental Health in the Republic of Kosovo. Despite the fact that this instruction has been repealed (by Decision GRK, no. 02/50, dated December 23, 2021), CIRCPP follows the practice based on this AI, which includes as an admission criterion the age of 18-65 years. Patients who have reached the age of 65 years continue to be admitted to CIRCPP. Other criteria are: diagnosis of paranoid schizophrenia and lack of family care. As for the shortcomings in the system for the group over the age of 65, it is the lack of a geriatric ward.

The Special Institute in Shtime (hereinafter: SISH) provides residential social care for persons with mental disabilities – delays in mental development. The admission criteria include, among other things, age over 18 and up to 65 years. SISH has 5 persons over the age of 65 and these elderly people are placed in the same place, but do not have special services for this age group. SISH operates on the basis of Administrative Instruction (MLSW) No. 11/2014 on the Work and Criteria for the Placement of Residents, People with Mental Disabilities – Delays in Mental Developmental in the Special Institute in Shtime and in Community-Based Homes.

The Mental Health Centre (hereinafter: MHC) in Prishtina provides psychiatric services, psychological services, psychosocial services, family psychological-education, home visits, day stays, individual and group therapy, rehabilitation activities, and recreational activities for all age groups, without limitation. There is one MHC per each functional administrative-regional unit (Prishtina, Gjakova, Mitrovica, Peja, Gjiilan, Prizren, and Ferizaj). All centres have community integration homes, which provide residential services in the function of rehabilitation and social reintegration of clients with chronic mental health illnesses and disorders (in remission) for the age group from 18 to 65 years. Persons who reach the age of 65 are not removed from their homes and currently there are several residents over the age of 65. Services for this age group should be specific considering their needs, but community integration centers/homes do not have specialized services for the age group over 65.

The Ombudsperson notes that mental health is not listed explicitly among the rights

enumerated in the ECHR. However, the ECtHR has accepted the principle that the right to health can be included in Article 2 of the ECHR by expanding the interpretation of the right to life. ECtHR case decisions have addressed mental health under Articles 2, 3, 5, and 8 of the ECHR, particularly in relation to the mandatory placement and treatment in health institutions of persons with mental disorders.

In the cases dealt with by the ECtHR, a sensitive approach to the rights of the elderly is emphasized by focusing on the right to life, treatment in institutions, care, and access to health services. Cases such as *Volintiru v. Italy*, *Dodov v. Bulgaria*, *Verein KlimaSeniorinnen Schweiz v. Switzerland*, and *Watts v. the United Kingdom* address the challenges of medical treatment and supervision in the care facilities for the elderly, as well as the impact of climate change and forced transfers on their health.

The 2030 Agenda for Sustainable Development includes 17 Sustainable Development Goals (SDGs). In 2008, the Assembly of Kosovo adopted the Millennium Declaration, according to the text of the United Nations General Assembly Resolution A/RES/55/2, adopted on 8 September 2000. The focus on mental health is closely linked to Goal 3: “*Ensure good health and promote well-being for all, at all ages*”, in particular to sub-goal 3.4, which aims to promote mental health and well-being and reduce the number of deaths and illnesses from substance abuse and mental disorders.

The Ombudsperson notes that in practice these persons are provided with services by the Psychiatric Clinic, however the criterion set out in the regulation constitutes a violation of human rights and discrimination based on age. He also finds that the Community Integration Homes, which operate within the Mental Health Centres, the Centre for Integration and Rehabilitation of Chronic Psychiatric Patients (CIRCPP) in Shtime, despite the repeal of Administrative Instruction (MoH) No. 07/2009 for Professional Services of Mental Health in the Republic of Kosovo, continue to adhere to the practices set out in this instruction in relation to the admission criteria, including the age limit from 18 to 65 years.

Mental health and social care services, which include hospital and residential care, provided by relevant institutions, are not adapted to address the specific needs and challenges faced by people over the age of 65. The lack of adequate training and expertise among professional personnel to effectively address the specific demands and needs of this age group requires concrete steps to increase the capacities of professional personnel and to develop service programs that are tailored to the needs of this age group.

The Ombudsperson ascertains that the age limit of 65 years, as a criterion for admission to residential institutions, constitutes a violation of the legal provisions of the Law on Social and Family Services and the Law on Protection from Discrimination. The lack of sub-legal act of the Law on Mental Health challenges the implementation of the law and creates room for discriminatory practices in the provision of mental health services related to the age limit for persons over the age of 65. In addition to the lack of sub-legal acts, the lack of clear criteria in existing sub-legal acts, the repeal of sub-legal acts by government decisions instead of issuing new sub-legal acts,³⁰⁰ and the limitation of rights guaranteed by law through sub-legal acts are contrary to the principles of the rule of law.

The Internal Regulation of the Emergency and Intensive Psychiatric Care Ward, based on which the activity of the Emergency and Intensive Psychiatric Care Ward is regulated, in addition to not meeting the standards of a normative act, has defined limitations of human rights that are guaranteed by law.

Through this report, the Ombudsperson recommended to the Government of the Republic

300 Administrative Instruction No. 07/2009 (in Healthcare) for Professional services of Mental Health in the Republic of Kosovo, which was repealed by Decision of the GRK, No. 02/50, dated 23.12.2021

of Kosovo to undertake measures for drafting a national plan on aging in the Republic of Kosovo; to the Ministry of Health, he has recommended that when amending/supplementing or drafting the new law on mental health, specific mental health services or obligations for this age group – geriatric services – be included as well as the determination of mandatory time limits for issuing sub-legal acts in order for the law to be enforceable. He has also recommended the conduction of awareness-raising campaigns and activities on the rights of the elderly in the field of mental health to combat stigma and discrimination based on age.

The Ministry of Justice was recommended to draft and issue the necessary sub-legal acts for the implementation of Law No. 08/L-255 on Social and Family Services in accordance with the time limits set out in the enacting provisions of the law and with Administrative Instruction No. 03/2013 on Standards for the Drafting of Normative Acts; to issue a written circular for SISH and Community-Based Homes, regarding the elimination of the limitation on the provision of residential services for persons over the age of 65; to take actions to increase the professional capacities of the professional staff within the Special Institute in Shtime, for the specifics of psychosocial care for persons over the age of 65.

The Hospital and University Clinical Service of Kosova (HUCSK) was recommended to draft internal regulations based on Regulation (GRK) No. 01/2020 on Standards for Internal Organization, Systematization and Cooperation in State Administration Institutions and Independent Agencies; to repeal the provisions of the articles in the internal regulations within the Psychiatric Clinic, which limit the provision of hospital services to persons over the age of 65; to take all measures to increase the number of neuropsychiatrists in the Mental Health Centre in Prishtina and in other regional centers, as needed; to take actions to increase the professional capacities of professional staff within the Psychiatric Clinic, mental health centres and integration homes, the Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime, regarding the specifics of mental health care for the category of persons over the age of 65; and take actions to provide and integrate geriatric services within the University Clinical Centre of Kosovo.

Whereas the municipalities of Prishtina, Istog Skenderaj, Novobërdë and Graçanica were recommended to undertake actions for increasing professional capacities of the professional staff within the Home for Elderly People without Family Care in Prishtina, and the specifics of psychosocial care for persons over the age of 65.

Expanding the list of essential medicines by including new medicines that can significantly improve the health and quality of life of citizens suffering from serious diseases

The report was drafted on the basis of several complaints received by the institution and, as such, analyzes the difficulties faced by citizens affected by several diseases whose treatment is costly and often unaffordable and the need they have for support from the state. For this reason, through this report, the Ombudsperson requests from the Ministry of Health to expand the list of essential medicines by including new medicines that can significantly improve the health and quality of life of citizens suffering from serious diseases and who are in urgent need of more effective medical treatment.

Based on the case law of ECtHR, it is noted that there are different systems of provision of healthcare and that states are allowed a space for assessing the inclusion of medicines provided free of charge. The ECtHR has found a violation in the case where the medicine was not replaced by an equivalent medicine. The ECtHR has assessed that states cannot be imposed a duty to equalise the differences between the healthcare available in different countries. As regards the unequal treatment or discrimination, the ECtHR has not found in any of the cases discussed above that there has been discrimination.

As regards the complaints received, the Ombudsperson notes that patients are provided with a type of free of charge therapy, but which does not seem to be sufficiently effective to treat the diseases. The Ombudsperson also relies on the recommendations of expert doctors that for the treatment of the above-mentioned diseases there are now more advanced medicines that are not included on the LEM.

The Ombudsperson appreciates the fact that there is an increase in the budget for oncological diseases; however, taking into consideration the positions of the Collegium of Oncology Clinics, the Ombudsperson considers it important and quite necessary for patients to have access to the most advanced health services. For this reason, the Ombudsperson recommended to the Ministry of Health to supplement/amend the List of Essential Medicines and include in this list the therapies: “braf positive” for patients with advanced melanoma and “Pirfenidone-267 mg” for patients with idiopathic pulmonary fibrosis. It was also recommended to enable free access for patients with liver metastasis from lung cancer to immunotherapy “pembrolizumab”, which is on the list of essential medicines.

Responsibility for the Living Environment

The condition of the river and the surrounding areas in the “Kalabria” neighbourhood in Prishtina

The purpose of this report is to bring to the attention of the Municipality of Prishtina the urgent need for immediate action to clean the river and its surrounding areas in the “Kalabria” neighbourhood in Prishtina, in order to fulfill the rights of the neighbourhood residents to enjoy a clean, safe, and healthy environment.

The National Institute of Public Health of Kosovo (NIPHK) has identified the following findings in the on-site inspection report: *“During the inspection of this neighbourhood, particularly the watercourse-stream, the team observed that the stream is being used as a landfill for solid waste (household furniture, cut tree trunks, weeds, etc.) and liquid waste, with drainage discharge pipes seen pouring into the stream. The stream emits a very strong and unpleasant odour.*

In conversations with residents of the neighbourhood, their primary complaint is the unbearable smell coming from the water flow, which is causing health concerns and forcing them to seek medical help. The disposal of solid waste into the water flow after each rainfall is leading to flooding in the houses in this neighbourhood. Additionally, residents are also complaining about the presence of insects (such as flies, mosquitoes, etc.) and rodents.

Despite reaching out to relevant institutions (the Municipality of Prishtina, the Municipal Inspectorate, the Department of Public Services, etc.), residents have not received any response and no action has been taken, except for a week ago when the trees around the stream were cut down and left at the cutting site. These remains of the cut trees are obstructing the flow of water. Based on inspection assessment and residents’ statements, the living conditions in this neighbourhood are difficult and pose a health risk to residents.”

Furthermore, in the report mentioned, the National Institute of Public Health of Kosovo (NIPHK) has summarized the findings and recommendations addressed to the relevant authorities as follows:

“During the on-site inspection, it was observed that:

There is a discharge of polluted water, solid waste, and various weeds in the stream. These not only contribute to bad odours but also favour the proliferation of microorganisms, parasites, rodents and insects;

The epidemiological situation in this neighbourhood is currently calm, despite occasional

individual complaints. However, there is still a permanent risk of an infectious disease outbreak, posing a threat to the health of citizens in this area.”

In order to protect the health of the residents in this area and address (*restore*) the situation, the NIPHK recommended that relevant authorities urgently investigate and eliminate possible wastewater discharges and other potential pollutants. Municipal environmental and sanitary inspectors should take concrete measures to identify and solve this problem. Additionally, until a final solution is reached, the stream passing through the neighbourhood should be regularly maintained by relevant authorities and residents themselves (by removing waste and weeds, and preventing the disposal of waste in the stream). Furthermore, the NIPHK believes that implementing these measures is necessary to overcome the current problem and, consequently, protect the health of the population.

The Ombudsperson recognizes that one of the fundamental principles of international environmental law is to achieve sustainable development, enabling citizens to enjoy a high quality of life in a clean, safe, and healthy environment. Based on the current situation on the ground, and specifically on the report of the NIPHK, which states: *“There is a permanent risk of an infectious disease outbreak and consequently a risk to the health of citizens in this area”*, it is evident that the environmental situation created by pollution of the river is preventing residents from living a quality life, posing a risk to their health.

Although aware of the Municipality’s project to build the collector, which implementation has been delayed, it finds that the high level of pollution and the potential serious impact on human rights and residents’ health necessitate immediate action by the authorities responsible for cleaning the river, as well as deratization and disinfection of the affected areas.

According to the Ombudsperson’s assessment, the situation in the mentioned neighbourhood requires urgent intervention from the competent authorities to restore the situation. It is also crucial to prevent the restriction of the right to a safe and healthy environment, the right to privacy and family, and the serious possibility of harming residents’ health due to pollution.

The ECHR³⁰¹ has ruled that environmental pollution could negatively affect individuals’ well-being and hinder their ability to enjoy their homes, thereby negatively impacting their private and family life. Consequently, the state is obligated to fulfill its positive obligation to uphold and respect their private and family life (Article 8 of the Convention).

Through this report, the Ombudsperson emphasizes that Target 6.3 of the 2030 Agenda specifically focuses on enhancing water quality by halving the proportion of wastewater: *“6.3 - By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally.”*

In this case, the Ombudsperson recommended to the Municipality of Prishtina that, in accordance with its legal competencies and authorizations, it should take necessary and immediate actions to clean the river and its surrounding areas in the “Kalabria” neighbourhood in Prishtina; act in accordance with the recommendations of the National Institute of Public Health of Kosovo (NIPHK), urgently investigate and eliminate possible discharges of wastewater and other potential pollutants; municipal environmental and sanitary inspectors should take concrete measures to identify and solve this problem; until a final solution is reached, the stream passing through the neighbourhood should be regularly maintained by relevant authorities and residents themselves (by removing waste and weeds, and preventing the disposal of waste in the stream). The Ombudsperson also recommended that the complainant be informed about the actions taken by the municipal authorities to address (resolve) the raised issue.

301 Guerra and Others v. Italy

Violation of the right to a safe and healthy environment due to the discharge of wastewater into the atmospheric water channel in Dujaka village, municipality of Gjakova

The report was prepared based on an individual complaint from a resident of Dujaka village in the municipality of Gjakova. It aims to assess the obligations of the responsible authorities regarding the violation of the right to a safe and healthy environment, the right to privacy, the right to life, and the rights of children in a neighbourhood of Dujaka village in the municipality of Gjakova.

Through the analysis of international instruments, the constitutional and legal framework, the report argues for the responsibilities of state authorities to prevent the harmful effects of untreated water discharges into the irrigation channel and the environment. In addition, the report is based on the recommendations of the National Institute of Public Health of Kosovo (NIPHK).

Based on the findings, facts collected, as well as the analysis of international instruments, the country's Constitution, and relevant laws that guarantee respect for human rights and establish rules for fulfilling positive obligations, the Ombudsperson concludes that the failure of the Municipality of Gjakova to fulfill its responsibilities as the competent authority for water infrastructure and the environment, through effective measures related to the needs of the residents of Dujaka village, has had a detrimental impact on restricting their right to a safe and healthy environment, their right to privacy, potentially violating the right to life, and violating the rights of children.

The Ombudsperson believes that the failure of the Municipality of Gjakova to comply with the constitutional and legal provisions regarding environmental protection, public health, children's rights, responsibilities outlined in the Law on Local Self-Government, and international instruments, represents a failure to meet the reasonable expectations of its citizens. Referring to the European Court's definition: "*Living in an area marked by pollution in clear excess of applicable safety standards exposed the applicants to an elevated risk to health.*"³⁰², the failure to conduct inspection actions by the inspectorate and other actions by the Department of Public Health (DPH), especially after clear recommendations from the NIPHK Report, is considered a failure of the Municipality of Gjakova to fulfill its constitutional and legal obligations to uphold the rights of its citizens. In this report, the Ombudsperson recommends that the Municipality of Gjakova promptly take steps to regulate the water and sewage infrastructure in Dujaka village, in accordance with the recommendations of the NIPHK Report, and take measures to cover the open section of the channel that poses a danger to the lives and safety of children and other residents.

Opinion on the state's positive obligations to respect and fulfill human rights in relation to the case of the construction of the cement factory in Dollc, municipality of Klina

The opinion reflects the Ombudsperson's views on respecting and fulfilling human rights, as well as preventing their violation during the construction process of a cement factory in Dollc village, Municipality of Klina. The opinion aims to draw the attention of the competent authorities, in this case the Ministry of Environment, Spatial Planning, and Infrastructure (hereinafter referred to as MESPI), and the Municipality of Klina, to the importance of fully respecting the rights of citizens by finding a fair balance between citizens' interests in environmental protection and the economic development of the country in the mineral industry sector.

302 Dubetska and Others v. Ukraine

Through this Opinion, the Ombudsperson emphasizes the state's responsibilities and positive obligations to respect citizens' rights to make decisions on environmental issues in their place of residence, and to fulfill these rights by the state without infringing on other rights guaranteed by the Constitution of the Republic of Kosovo, international standards, and current laws in force.

The opinion is based on a complaint filed by a group of citizens from Dolle, Gremnik and Dresnik villages in the Municipality of Klina, accompanied by a petition signed by 3,901 citizens who oppose the construction of a cement factory in Dolle village in the Municipality of Klina, claiming that it has a negative impact on the environment and human health.

In this opinion, the Ombudsperson discusses the case law of the ECtHR regarding environmental issues, private and family life, and the interpretation that the court has given in these cases. In the case of *Pavlov and Others v. Russia*, the ECtHR argued that even though the applicants in Pavlov lived at considerable distances from the polluting sites and did not provide evidence of a significant risk to their health, the majority of judges were satisfied noting that "the pollution levels [...] were not negligible" (paragraph 71) and exceeded the pollution levels generally expected in "life in any modern city". The considerable distance from the factory did not prevent the court from assessing whether the interference was justified or not, rather than refusing to review the case on the grounds of the distance from the polluting site.

The impact of environmental pollution on the well-being of citizens is also reflected in the ECtHR case, *Guerra and Others v. Italy*, in which the court determined that environmental pollution has a negative effect on individuals' well-being and hinders their ability to enjoy their homes, respectively, their private and family life, emphasizing that the state had failed to fulfill its positive obligation to uphold and respect the applicants' right to their private and family lives, which is contrary to Article 8 of the Convention.

Based on the findings presented in this opinion, the Ombudsperson notes that citizens were not provided with adequate access to information about the purpose and timing of the public debate. Consequently, not all interested citizens had the opportunity to participate. To ensure that this guaranteed right is effectively upheld, the state must ensure that citizens not only have the capacity to participate, but also the opportunity to influence and contribute to the decision-making process.

The residents were not provided with specific and detailed information about the entire process initiated, including official procedures, actions, and concrete steps related to the cement factory construction project. It is the legal obligation of state, central, and local authorities to be sufficiently transparent regarding economic development projects and processes, so that citizens are informed and have the opportunity to monitor developments. This practice strengthens citizens' trust in government institutions and helps build a more inclusive and informed society.

Given the economic developments in the mineral industry, such as the construction project of a cement factory in this case, it has been observed that the relevant authorities have not conducted thorough research to predict and assess the potential negative environmental impacts. A study and research are crucial to provide specific information on the extent of possible negative impact on the environment in all components, including impact in terms of material damage, as well as non-material or intangible damage, such as air quality, noise level, etc.

In this specific case, where the rights to sustainable economic development of the country and the protection of the living environment are at stake, the Ombudsperson assesses that a professional study of proportionality has not been provided to achieve the maintenance of the balance between the two aspects: the right to sustainable economic development of the country and the protection of the environment. While economic development guarantees

economic growth, employment, and social progress, its intersection with the impact on the environment may have negative and unsustainable consequences. Therefore, the state must ensure that in complex situations where fundamental human rights may be at risk, the impact on rights violations is minimized as much as possible.

The MESPI's failure to respond to the Ombudsperson's letters is viewed as an obstacle to the Ombudsperson's ability to analyze and evaluate the case in terms of human rights. The lack of cooperation with the Ombudsperson is a violation of the Constitution of the Republic of Kosovo, specifically Article 132, paragraph 3, which explicitly stipulates: *"Every organ, institution or other authority exercising legitimate power of the Republic of Kosovo is bound to respond to the requests of the Ombudsperson and shall submit all requested documentation and information in conformity with the law."*

The Ombudsperson notes that state institutions should consider the preservation of values outlined in the Constitution of the Republic of Kosovo. This includes prioritizing public health, environmental protection, sustainable use of resources, preservation of water resources, conservation of cultural heritage, and protection of flora and fauna. Therefore, all decisions regarding economic development processes that could impact these natural phenomena should be transparent and accessible to interested citizens, approached with seriousness, thorough analysis, and detailed evaluation to minimize negative impacts on human rights enjoyment as much as possible, and in a way that citizens do not feel threatened in their future enjoyment of life and homes by mineral industry developments hidden behind the veil of information secrecy.

National Preventive Mechanism Visit Reports

Report on the visit of the National Preventive Mechanism to the Correctional Center in Dubrava

The purpose of this visit was to assess the respect for the fundamental human rights of prisoners, as guaranteed by the Constitution of the Republic of Kosovo, the applicable laws in the Republic of Kosovo, and international standards for the protection of the rights of persons deprived of their liberty. Additionally, the visit aimed to evaluate the progress made by the competent authorities in implementing the recommendations of the Ombudsperson submitted through the report dated December 28, 2023, the opening of complaint boxes, interviewing detainees/prisoners who have contacted the institution, and investigating cases of bodily injuries, which have been forwarded by the Prison Health Department (PHD).

The cooperation between officials of the Kosovo Correctional Service (KCS) and officials of the Prison Health Department (PHD) with the National Preventive Mechanisms (NPM) during the three-day visit to the Correctional Center in Dubrava (CCD) was satisfactory. The team had access to all areas visited and were provided with all the necessary information to carry out their duties. They were also able to have discussions with inmates and detainees, without the presence of correctional officers or healthcare personnel.

During the visit of the National Preventive Mechanisms (NPM) to the Correctional Center in Dubrava (CCD) on July 22, 2024, in Pavilion D, correctional officers were unaware that NPM was conducting monitoring even after working hours. Some findings and observations from this visit include the non-functioning of Pavilion No. 2, which affects the inmates' right to sufficient space and leads to overcrowding in other pavilions. Additionally, the lack of hot water in some pavilions affects the personal hygiene of the inmates.

During the NPM's visit to the CCD on July 22, 2024, at Pavilion D, the correctional officers were unaware of the monitoring activities conducted by the NPM outside of regular working hours.

Some of the findings and observations from this visit include that the non-functioning of Pavilion No. 2 affects convicted persons' right to adequate space and contributes to overcrowding in other pavilions. The lack of hot water in some pavilions negatively impacts the ability of convicted persons to maintain personal hygiene.

The lack of high-quality mattresses and pillows is impacting the inmates' health and cleanliness in general. The old oven and outdated equipment in the kitchen make it challenging to prepare quality food and also pose risks to the kitchen staff. The malfunctioning elevator electronics in the kitchen storage cabinet pose a life-threatening risk to those involved in food transportation, and water leakage from the storage cabinet ceiling creates issues in carrying out tasks.

Water leaking from the ceiling into the laundry room and the malfunctioning of the three washing machines are causing capacity problems for all pavilions. Furthermore, the dampness and lack of ventilation pose a health risk for both staff and inmates. Placing severe cases in the psychiatric ward of the prison hospital, which does not meet even the minimum conditions, constitutes a violation of the rights of this category of individuals.

The limited number of social workers is leading to a lack of access to social services, which can negatively impact the well-being of inmates in prison. Furthermore, the inability to make international phone calls and the limited time available for Skype calls are violations of the prisoners' rights.

Malfunctioning security cameras in certain pavilions create insecurity and hinder protection from mistreatment. The non-functional sports hall at the PGJH also prevents the realization of activities.

On this occasion, the Ministry of Justice was recommended to find a solution to make Pavilion No. 2 operational; The Ombudsperson reiterates the following recommendations: prisoners should be adequately supplied with hot water; inmates should be provided with quality mattresses and pillows in all pavilions; the kitchen should be equipped with a new oven for baking bread and new utensils for food preparation; urgent measures should be taken to repair the elevator in the kitchen storage cabinet and prevent water leakage from the ceiling; water leaking from the ceiling into the laundry room should be prevented, and the functionality of washing machines and ventilation should be ensured; adequate conditions should be created for hospitalized patients in the prison hospital; the number of social workers should be increased; all foreign citizens serving a sentence should be allowed to communicate via Skype when they are unable to make phone calls or receive visits; security cameras in certain pavilions and in the kitchen should be made operational; the sports hall in the Semi-Open Pavilion should also be made functional; and training sessions should be organized for correctional officers to inform them about Article 17 of Law No. 05/L-19 on the Ombudsperson and the mandate of the NPM.

Report on the visit of the National Preventive Mechanism to the border crossing point of Prishtina International Airport "Adem Jashari"

The purpose of this visit was to conduct a general assessment of the respect for the rights of foreign citizens who, according to the Law on Foreigners in the Republic of Kosovo and other relevant laws cannot enter the territory of the Republic of Kosovo, are subject to return to their countries of origin or are temporarily held in detention areas at the entry point of Prishtina International Airport.

During the visits to this border crossing point, the cooperation of the police officers on duty with the National Preventive Mechanism (NPM) was excellent. The team had unrestricted access to all visited areas and were provided with all the necessary information to carry out their duties.

Foreign citizens who wish to cross the border of the Republic of Kosovo but do not meet the legal criteria, and if the air carrier is unable to immediately return them, are held in special areas at the Prishtina International Airport (PIA) for up to 72 hours. These areas are also known as holding areas at the entry points of airports. During the visit, the National Preventive Mechanism (NPM) did not encounter any foreign citizens accommodated in these areas. It was observed during the visit that the individuals detained in these areas are not registered in any specific registry. According to the border police, these individuals are only registered in the police log of those who are on duty.

The standards of the European Committee for the Prevention of Torture (referred to as *CPT*) for detained foreign citizens, based on the Law on Foreigners published in 1997,³⁰³ require that detained individuals must have adequate sleeping space, access to their luggage (belongings), and suitable sanitary and cleaning facilities, as well as daily ventilation (outdoor access to fresh air). In addition, these standards mandate that foreign citizens in these facilities should have access to food and, if necessary, receive medical care.

During the visit, it was observed that these rooms offer acceptable accommodation conditions. Cleanliness was at an appropriate level, toilets were equipped with hygiene products, showers were in good condition, beds were with closets, and there was sufficient artificial light. According to the statements from border police officers, foreign citizens held in these spaces are allowed to go outside for fresh air (ventilation) daily. The NPM team evaluates that the accommodation conditions in these rooms comply with the standards of the European Committee for the Prevention of Torture.

The healthcare unit operating within the PIA is a service organized by the PIA. The NPM team visited this healthcare unit, where it was mentioned that detainees are visited by this unit in emergency cases.

When it comes to providing medical services, if detainees at the PIA require more specialized care, they are escorted by police officers to other public health institutions outside the PIA.

In terms of communication with the outside world, it is important to note that the rooms lack necessary information for foreigners to be informed about their rights. This includes information on how to contact mechanisms for the protection of their rights in different languages. Additionally, as mentioned earlier, there is no information provided about the availability of “WI-FI”. The NPM team has observed that brochures in various languages are available in the police offices, but recommends that they should also be displayed and easily visible in the detention rooms.

Based on the findings from the visit to the PIA, the Ombudsperson recommends that the Ministry of Internal Affairs create a special registry for detainees in the detention rooms at the Prishtina International Airport “Adem Jashari”. In addition, the holding (detention) areas at the entrance points of the “Adem Jashari” International Airport in Prishtina should be equipped with relevant information in different languages (posters and brochures) to inform foreigners about their rights, legal status, and their right to contact human rights protection mechanisms. Information regarding “WI-FI” should also be provided.

303 <https://rm.coe.int/16806ce90e>

Report on the visit of the National Preventive Mechanism to the Detention Center for Foreigners in Vranidoll

The National Mechanism for the Prevention of Torture under the Ombudsperson (referred to as NMPT), in accordance with Article 17 of Law No. 05/L-019 on the Ombudsperson, conducted a visit to the Detention Center for Foreigners in Vranidoll (referred to as DCF) which operates under the Department for Citizenship, Asylum and Migration (DCAM) of the Ministry of Internal Affairs (MIA). The purpose of the visit was to monitor the respect of the rights of foreigners detained in the DCF, as outlined in Law No. 04/L-219 on Foreigners, the Law on Asylum, Regulation No. 04/2018 on Operation of the Detention Center for Foreigners and international human rights standards. According to Article 2 of Regulation (MIA) No. 04/2018 on Operation of the Detention Center for Foreigners (referred to as the Regulation), this center accommodates foreigners who are subject to forced removal, as well as foreigners considered to be a threat to public security, for the purpose of verifying their identity and other reasons.

The Detention Center for Foreigners (DCF) has a capacity for 75 people. In 2023, 11 individuals were detained at the DCF, with most staying for 5 to 6 months. From January 2024 until the day of the visit (August 21), 21 adults have been detained, with no unaccompanied children.

In this report, the National Mechanism for the Prevention of Torture (NMPT) notes that, due to a shortage of qualified medical staff, the personnel at the Center distribute medication (therapy) to detained foreigners based on a written report by a competent doctor. This practice is in contradiction with Law No. 04/L-219 on Foreigners, Regulation No. 04/2018 *on Operation of the Detention Center for Foreigners*, and international standards for immigration detention. As a result, it was previously recommended that “*the DCF should have at least one nurse available to distribute medication and take care of the medical records of foreigners at the DCF.*”

In the absence of qualified medical staff, health records are being stored alongside the general files of foreigners. This compromises the confidentiality of medical services and violates Regulation No. 04/2018 *on Operation of the Detention Center for Foreigners*, as well as the provisions of Law No. 03/L-172 *on the Protection of Personal Data*, and international standards.

Cameras that serve as an additional guarantee against physical abuse and protection for staff from false accusations are not providing clear view. Some cameras do not work at all, and the lighting behind the building is very poor. Recommendations were made in 2022 to address these issues, but they have not been implemented yet.

The facility constructed for the administrative staff of the Center meets all infrastructural requirements. However, due to the lack of an internet connection and non-functioning heating, this facility is currently out of use.

Taking into consideration that immigration detention is a form of administrative detention for individuals rather than traditional detention, the National Preventive Mechanism of the Ombudsperson notes that Regulation No. 04/2018 *on Operation of the Detention Center for Foreigners* has limitations on communication with the outside world, such as internet access and Skype, as well as a lack of recreational activities, particularly for individuals staying for an extended period of time.

This report recommends that the Ministry of Internal Affairs and Public Administration operationalize a dedicated facility for staff and enhance recreational activities at the detention center.

Report on the visits of the National Preventive Mechanism to Police Stations

In accordance with the mandate given, the National Mechanism for the Prevention of Torture under the Ombudsperson has conducted visits to the following police stations: Shtërpçë Police Station, “Qendra (Center)” Police Station, Podujeva Police Station, Istog Police Station, Drenas Police Station, Skenderaj Police Station, Mitrovica - South Police Station, Mitrovica - North Police Station, Malisheva Police Station, Rahovec Police Station, Gjakova Police Station, Gjilan Police Station, and Graçanica Police Station. The purpose of the visit to the police stations mentioned above was to assess whether three fundamental rights of arrested persons were respected: the right to notify a family member or another person of their choice about the arrest; the right to a defense attorney; and the right to medical services as well as the conditions of accommodation in police detention centers. These rights are defined and guaranteed by the Constitution of the Republic of Kosovo, Law No. 04/L-076 on Police, the Criminal Procedure Code, and international standards set by the European Committee for the Prevention of Torture.

During visits to the aforementioned police stations, the Ombudsperson observed that none of the detention centers, especially the detention cells, had a call system (bell) in place. The Ombudsperson pointed out that without a call system (bell), there is a significant risk that the police may not respond promptly in the event of incidents (such as violence among detainees, suicide attempts, fires, health emergencies, etc.). Therefore, installing a call system would not only provide detainees with a sense of security but also enable them to communicate promptly and efficiently with the police supervisory staff.

In certain detention centers, brochures and posters illustrating the human rights of individuals detained in police custody were not displayed on the walls. Even though detainees are informed of their rights during interviews and through signed forms, the Ombudsperson believes that placing brochures and posters in detention rooms to inform detainees about their rights would offer clearer information about their rights.

Regarding the material conditions of the detention centers, it is observed from the findings mentioned above that detention centers at the police stations in Prishtina, Drenas, Mitrovica South, Mitrovica North, Shtërpçë, Gjakova, and Malisheva need to have all deficiencies addressed (repaired), renovated, and made operational for the intake and detention of individuals in accordance with the minimum standards set by the European Committee for the Prevention of Torture.³⁰⁴ The Ombudsperson also highlights that the interrogation offices at the Podujeva Police Station should be regulated and renovated to meet these standards.

There is a shortage of hygiene supplies in all police stations.

Regarding the operation of cameras in detention centers, the Ombudsperson has noted that the security cameras are not functioning in the police stations of Shtërpçë, Gjilan, and Graçanica. The Ombudsperson observes that the lack of functioning cameras in these police stations poses a risk of mistreatment of individuals in detention. Therefore, the security cameras at these detention centers should be made operational as soon as possible.

The food provided to detainees at all visited detention centers is of poor quality, dry, and insufficient in quantity. The police officers at the police stations face the biggest challenge with individuals who are users of narcotics and those with mental health issues. Individuals from these categories make their work much more difficult, as they are hard to manage and require continuous monitoring for 48 hours due to the risk of self-harm/suicide. They pose a risk not only to themselves but also to the police staff, who are not trained to handle these types of detainees.

³⁰⁴ <https://rm.coe.int/16806cd1d5>

It has been observed and concerns have been raised at all police stations regarding the unfavourable working conditions of police officers. It has been observed that most of the mentioned stations lack inventory, printers, hygiene products, and vehicles.

This report recommends to the Ministry of Internal Affairs that all detention centers in the aforementioned police stations be equipped with a call system, specifically a call bell. It suggests that posters detailing the rights of detained individuals be displayed on the walls in all rooms/cells within the detention centers; all issues should be remedied (addressed) and the detention centers in the police stations in Prishtina, Drenas, Mitrovica South, Mitrovica North, Gjakova, Shtërpçë and Malisheva should be made operational; detainees should be provided with sufficient hygiene supplies; security cameras in the police stations in Shtërpçë, Gjilan and Graçanica should be functional; and detainees should be provided with quality and sufficient food. Additionally, appropriate training should be provided for police staff to effectively treat detained individuals with mental illnesses; working conditions should be improved for police officers, ensuring they have adequate inventory (chairs, tables), printers, hygiene supplies, and vehicles.

Report on the visit of the National Preventive Mechanism to the Correctional Center for Juveniles in Lipjan

The National Mechanism for the Prevention of Torture carried out visits to the Correctional Center for Juveniles (CCJ) and the Education-Correctional Center for Juveniles (ECCJ) in Lipjan. The purpose of the visits was to monitor the respect for the fundamental rights of juveniles deprived of liberty, as guaranteed by the Juvenile Justice Code, the applicable laws in the Republic of Kosovo, and international standards for the protection of the rights of persons deprived of liberty. Additionally, the visit aimed to assess the progress of the competent authorities in implementing the recommendations of the Ombudsperson, as outlined in the 2022 report, open complaint boxes, interview juveniles who have requested to be contacted by the Ombudsperson, as well as interview and review case files forwarded by the Prison Health Department.

Based on the findings of the visit to the JCC, the NPM observed that in Pavilion D there is lack of closets for storing clothes and the mattresses are worn out. The absence of quality mattresses can negatively impact the physical health of juveniles, while the lack of closets can affect overall cleanliness. Additionally, high temperatures in the juveniles' rooms during the summer can have adverse effects on both their physical and mental health, leading to dehydration and fatigue. Furthermore, poor-quality and insufficient food provided for the juveniles can weaken their immune systems and increase the risk of illness. The lack of activities for detained juveniles also hinders the development of social relationships, communication, and cooperation with others. Moreover, having only one nurse for the three correctional centers in Lipjan is inadequate to provide sufficient care.

The absence of an institution where imprisoned (incarcerated) juveniles with mental health and management issues can be treated may worsen their mental health. Additionally, the lack of these specialized institutions may constitute a violation of their rights, leaving them disadvantaged compared to adults. With this report, the National Preventive Mechanism (NPM) recommended to the Ministry of Justice that *juveniles should be provided with high-quality mattresses and closets for their clothes; measures should be taken to install air conditioners in rooms with high temperatures; juveniles should also be provided with quality and sufficient food; efforts should be made to involve detained juveniles in more activities; an institution should be established to offer specialized care for incarcerated juveniles with mental health issues, ensuring they receive appropriate treatment.*

Opinions of the Ombudsperson expressed in the capacity of Friend of the Court (*Amicus Curiae*)

Opinion of the Ombudsperson in the capacity of Friend of the Court (*Amicus Curiae*) to the Basic Court in Prishtina regarding discrimination and violation of the dignity of members of the LGBTIQ+ community

This opinion of the Ombudsperson, in the capacity of a friend of the court, analyzes the statements made by several deputies (MPs) regarding the LGBTIQ+ community during the plenary session on March 16, 2022, while discussing Draft Civil Code No. 08/L-124.

In addition to the complaint filed with the Ombudsperson institution on behalf of several non-governmental organizations: Youth Initiative for Human Rights of Kosovo (YIHR), Center for Equality and Liberty, Center for Development of Social Groups, Defenders of Civil Rights, and Kosovo Center for Gender Studies - represented with authorization by Ms. Marigona Shabiu from the Youth Initiative for Human Rights of Kosovo, they also filed a lawsuit (C. no. 2993/2024) at the Basic Court of Prishtina. After analyzing the circumstances of the case, the Ombudsperson provided their opinion to the court in the capacity of a friend of the court.

The Assembly of the Republic of Kosovo held a plenary session where, among other things, the initial review of Draft Civil Code No. 08/L/124 was also taking place. The provision that sparked contradictory discussion among members of the Assembly of Kosovo was Article 1138, paragraph 2 of the Draft Civil Code, which stipulates that *“Registered civil unions between individuals of the same sex are allowed. Conditions and procedures are regulated by a special law.”*

During this session, several deputies expressed negative statements towards LGBTIQ+ individuals. They not only openly promoted the idea of the “natural family”, the “preservation of the species”, and “tradition”, but also voiced prejudices against same-sex couples. They argued that the new Code would endanger “public morality” and lead to “sexual insatiability”, “moral degeneration”, “disease”, and “destruction”. They claimed that such behaviour was “contrary to human nature”, a “violation of the sanctity of the family”, and “an act that seriously harms public health, becoming a cause of serious and incurable diseases, like HIV/AIDS”, ultimately resulting in “social trauma”.

Before the parliamentary discussion, several deputies (MPs) made public appearances with statements and claims as to why the Draft Civil Code should not be voted on. These views sparked negative comments on social media and in public opinion, further exposing homophobic narratives and attitudes.

Civil society organizations reacted against the language used towards the LGBTIQ+ community during the debate on the Draft Civil Code. In their reactions, they emphasized that social discrimination and stigma harm the psychological, physical, social, and economic well-being of LGBTIQ+ individuals.

Given the subject matter of this complaint, the Ombudsperson emphasizes the need to determine if the views and statements made by the deputies during the initial review of Draft Civil Code No. 08/L-124 in this plenary session violate the provisions of the LOR. It is crucial to evaluate whether these views and statements made by the deputies infringe upon the dignity of individuals or groups of individuals based on their personal characteristics, specifically sexual orientation. Additionally, it is essential to assess whether these statements create a hostile, demeaning, and offensive environment for members of the LGBTIQ+ community, and whether they can be considered as hate speech.

The oath to respect constitutionality and legality and to guarantee freedoms and human

rights in accordance with the laws of the country, obligates Members of Parliament (MPs) to implement and respect the Constitution and legislation for the protection against discrimination, even for citizens of the Republic of Kosovo who belong to the LGBTIQ+ community.

Recommendation CM/Rec (2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity (adopted by the Committee of Ministers on March 31, 2010 at the 1081st meeting of the Ministers' Deputies), provides a number of recommendations: Recognising that lesbian, gay, bisexual and transgender persons have been for centuries and are still subjected to homophobia, transphobia and other forms of intolerance and discrimination even within their family – including criminalisation, marginalisation, social exclusion and violence – on grounds of sexual orientation or gender identity, and that specific action is required in order to ensure the full enjoyment of the human rights of these persons; Considering the case law of the European Court of Human Rights (ECtHR) and of other international jurisdictions, which consider sexual orientation a prohibited ground for discrimination and have contributed to the advancement of the protection of the rights of transgender persons; Recalling that, in accordance with the case law of the Court, any difference in treatment, in order not to be discriminatory, must have an objective and reasonable justification, that is, pursue a legitimate aim and employ means which are reasonably proportionate to the aim pursued; Bearing in mind the principle that neither cultural, traditional nor religious values, nor the rules of a “dominant culture” can be invoked to justify hate speech or any other form of discrimination, including on grounds of sexual orientation or gender identity.

The Ombudsperson acknowledges the significance of freedom of thought and expression. In this context, it is emphasized that every individual has the right to express their personal opinions and views, which are fundamental in any free democratic society. However, it is important to note that the right to freedom of speech should not be used as a justification for discrimination regardless of how ideas and views are expressed and published. Therefore, expressing views and beliefs that undermine the dignity of individuals or groups of individuals, tarnish reputations, or infringe upon the guaranteed rights of others cannot be justified by the right to freedom of expression.

These opinions and statements carry significant weight when considering that the deputies (MPs) of the Assembly of Kosovo are part of an institution that is the highest representative body and bearer of constitutional and legislative power in the country. This institution is extremely important for establishing a democratic system and serves as the basis for establishing the rule of law, overseeing governance processes, and respecting international human rights instruments and standards that are directly applicable in the Republic of Kosovo.

The European Court of Human Rights (ECtHR) has handled cases involving discriminatory speech used by public officials, including politicians and government representatives. Here are some key points and principles that arise from the ECtHR case law:

- a. The European Court of Human Rights (ECtHR) acknowledges the importance of freedom of expression, including freedom of expression for public officials, as a fundamental right under Article 10 of the European Convention on Human Rights (ECHR). However, this right is not absolute and can be subject to restrictions, especially when it concerns speech that may harm the rights or interests of others.
- b. The ECtHR distinguishes between legitimate criticism and expressions of hate speech. Hate speech, especially when used by public officials, may undermine social cohesion and violate human dignity. Such speech does not enjoy protection under Article 10 if it exceeds the permissible limits of freedom of expression.
- c. The context in which discriminatory speech is expressed is decisive. Statements made by public officials carry weight and may have a significant impact on public discourse

and social attitudes. Therefore, such statements may be subject to stricter scrutiny and accountability.

- d. The ECtHR emphasizes the importance of effective legal remedies for victims of discriminatory statements. It asserts that states must ensure mechanisms to address hate speech and guarantee accountability, including legal, judicial, or administrative measures.

The Ombudsperson considers that freedom of speech, expression, and information should not be used to justify any form of discrimination or belittlement based on personal characteristics, nor should it be used to promote prejudices or create a hostile and offensive environment for a particular group of individuals. Furthermore, freedom of expression should not be used as a justification for hate speech. Statements made by public representatives, who convey messages and shape public opinion, are extremely important, and therefore their statements should not endorse prejudices, stereotypes, or other unacceptable social norms. Consequently, all state officials and public institutions have a special responsibility and play an important role in promoting tolerance, advocating for the right to diversity, and creating a society where everyone's rights are respected without discrimination.

The statements made by deputies (MPs) on March 16, 2022, during the discussion in the plenary session of the Assembly of Kosovo, while reviewing Draft Civil Code No. 08/L-124, Article 1138, paragraph 2, are discriminatory. They violate the dignity of LGBTIQ+ individuals by creating a demeaning and offensive environment towards them. Additionally, based on the ECtHR case law, these statements constitute hate speech against the LGBTIQ+ community.

Opinion of the Ombudsperson in the capacity of Friend of the Court (*Amicus Curiae*) to the Basic Court in Prishtina, Department for Administrative Matters, regarding the obligations of state authorities to respect the principle of legality in the case of decision annulment

This legal opinion (*amicus curiae*) aims to clarify the legal basis and analysis of the complainant's appeal regarding the violation of the principle of legality by the Independent Oversight Board for the Civil Service of Kosovo in the case of making a decision based on their appeal, and the obligations of state bodies to protect and guarantee the fundamental human rights and freedoms of individuals.

The Ombudsperson, without prejudice to the final decision of the court, notes that the IOBCSK, through Decision A.nr. 1237/2023, annulled the decision of the Minister of MESTI (Decision Protocol No. 2357, dated September 20, 2023) on the grounds of being issued by an incompetent body. Although the IOBCSK annulled the Minister's decision with Decision A.nr. 1237/2023 due to a lack of competence to issue such a decision, they upheld the consequences of that decision, thereby rejecting the complainant's request for reinstatement to their previous position under the previous appointment act.

Law No. 05/L-031 on General Administrative Procedure, Article 52, defines the circumstances under which an administrative act is considered unlawful. Point 1.2 stipulates that an unlawful administrative act is one that is issued by a public body without the necessary competence (authority). According to the assessment of the Ombudsperson, the purpose of annulling an unlawful administrative act is to establish legality, thereby avoid the consequences of a decision that has been deemed unlawful.

The Ombudsperson believes that the IOBCSK failed to prevent the consequence that arose from the unlawful decision made by the incompetent body. In this specific case, the principle of legality was violated. The principle of legality is a fundamental principle in the functioning of the entire legal system in the country, including the functioning of the state administration.

Its application aims to prevent administrative bodies from making arbitrary decisions. Adhering to this principle in administrative procedures provides greater legal certainty for all parties involved. The primary importance of the principle of legality lies in following the legal procedures and making lawful decisions.

In this context, the Ombudsperson draws attention to the fact that the IOBCSK had a legal obligation to fully adhere to the principle of legality when issuing Decision A.nr. 1237/2023. By annulling the decision, the legal consequences it caused should also be nullified, thereby protecting and guaranteeing the rights of the complainant.

Opinion of the Ombudsperson in the capacity of Friend of the Court (*Amicus Curiae*) provided to the Basic Court in Prishtina

The opinion of the Ombudsperson, acting in the capacity of a friend of the court, aims to express the Ombudsperson's views seen from a human rights perspective on the complaint regarding the conduct of court proceedings and the termination of the employment contract.

The complainant started a probation period as the Assistant to the Director at a public institution under a contract signed for an indefinite period, contingent on successfully completing the probation period and confirmation of work performance assessment. However, the employer terminated the contract after approximately a year, citing the draft financial audit report on the institution's performance as the reason for the termination, rather than the complainant's performance.

The complainant alleges that she feels discriminated against by the employer due to her public activities and political beliefs, as well as the family and marital status of her spouse, who served as a political advisor in the Office of the Prime Minister and the Office of the President for a certain period of time.

The Ombudsperson considers that terminating employment for reasons not stipulated by law may violate the principle of legal certainty in terms of legitimate expectations. The concept of legitimate expectations in safeguarding subjective rights is a comprehensive interpretation concept in international judicial practice. The European Court of Human Rights has incorporated the concept of legitimate expectations in its consideration of cases brought before the court.

According to the case law of the European Court of Human Rights (see the cases of *Kopecky v. Slovakia*, judgment of September 28, 2004, §§ 45-52; *Gratzinger and Gratzingerova v. the Czech Republic (dec.)*, No. 39794/98, § 73, ECtHR 2002-VII), a "legitimate expectation" must be more concrete in nature and based on legal provisions or acts. In this case, the applicant's legitimate expectation is that her contract will not be terminated for reasons not specified by law.

If classified documents do not provide valid reasons for contract termination other than those specified by law, there may be reasonable doubts that the contract was terminated in a discriminatory manner based on the political affiliation of the complainant's spouse.

Consequently, discrimination by association can occur when discrimination arises not from the characteristics of the complainant themselves, but from their association with a person or group that falls under one of the protected grounds. (See the case of *Molla Sali v. Greece* Application No. 20452/14).



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**Promotion of
human rights
and fundamental
freedoms by the
OI during 2024**

Promotion of human rights and fundamental freedoms by the OI during 2024

The role of the OI in promoting human rights and equality

Promotion and education on human rights constitute one of the three most important pillars within the competencies and responsibilities of the Ombudsperson Institution.

The Ombudsperson is dedicated to carrying out various activities aimed at raising awareness and educating on human rights and fundamental freedoms, even through 2024. Moreover, the Ombudsperson has continued to fulfill obligations stemming from international human rights instruments and standards, the Law on the Ombudsperson, as well as the second strategic goal of the Ombudsperson Institution Strategy 2021-2025, which focuses on promoting human rights and fundamental freedoms and the role of the Ombudsperson Institution.

In 2024, the Ombudsperson organized a series of significant roundtable, where human rights issues were discussed, with the aim of raising awareness about their protection and respect. These roundtables also presented findings from various Ombudsperson reports. Through close collaboration with civil society and international organizations, numerous on-site information campaigns, lectures with students and youth, and other promotional and awareness-raising activities were carried out.

The table below presents activities organized by the Ombudsperson in 2024

Type of activity	Purpose	Numri total
Thematic discussion roundtables organized by OI in collaboration with partners	Discussion on human rights, promotion of human rights, and presentation of findings in published reports with recommendations	16
Thematic discussion roundtables and field information campaigns with CSOs (ACDC)	Raising awareness on human rights, promoting and empowering cooperation at the local level	5
Thematic discussion roundtables and field information campaigns with international organizations (OSCE)	Raising awareness on human rights, promoting and empowering cooperation at the local level	9
Lectures and meetings with youth	Education and information on human rights	7
Trainings for judges and prosecutors	Education and information of legal professionals on human rights, the ECtHR case law and the OI mandate	2
Meetings with primary and secondary school students as part of the campaign Get to Know the Ombudsperson Institution	Education on human rights and raising awareness	30
Meeting with preschool students		1
Meetings and other launching events	Collaboration in advancing human rights	10
Meetings as part of the CSO Dialogue Forum	Enhancing cooperation and advancing promotion, protection and respect for human rights	3

Promoting human rights and raising awareness through field information campaigns

In 2024, the Ombudsperson, in collaboration and support of the OSCE, organized eight (8) discussion roundtables in different municipalities of Kosovo, including Gračanica³⁰⁵, Rahovec, Klina, Dragash, Mamusha³⁰⁶, Letnica and two (2) roundtables in Shtërpce. These roundtables were attended by mayors, representatives from municipal directorates, human rights, gender equality and community officials, civil society representatives, as well as citizens from non-majority communities such as Serbs, Turks, Bosniaks and Croats.

The primary objective of these discussion roundtables was to raise awareness about fundamental human rights and freedoms, provide information about the mandate and competencies of the Ombudsperson, listen to and address citizens' complaints, and enhance cooperation with local institutions and civil society.

On November 8, 2024, during the discussion roundtable organized by the Ombudsperson Institution in collaboration with the OSCE office, the findings gathered from field research and citizen complaints were presented. These findings were then discussed with representatives from central and local institutions.³⁰⁷

The issues, challenges, and complaints raised by citizens at these discussion roundtables, which will be addressed by the Ombudsperson as part of his responsibilities, include: *environmental concerns such as air and river pollution, inadequate noise*

management, limited citizen participation in environmental decision-making processes, and a shortage of municipal environmental inspectors; deficiencies in respecting the use of the mother language for citizens of non-majority communities in judicial, administrative, and recruitment processes; absence of non-governmental organizations dealing with human rights from non-majority communities; underrepresentation of women in local public positions; difficulties in diploma recognition process, especially for the Serbian community; lack of physical and infrastructural access for persons with disabilities in public institutions like courts, municipalities, and schools; and lack of access to drinking water supply in certain municipalities, such as Klina, etc.

Cooperation with civil society to promote human rights

In 2024, the Ombudsperson in cooperation with the Advocacy Center for Democratic Culture (ACDC), organized a series of discussion roundtables in different regions of Kosovo as part of the project "Advancing human rights through increasing public awareness". The project was implemented by the NGO ACDC and supported by UNMIK. The discussion roundtables took place in Prizren³⁰⁸, Ferizaj³⁰⁹, Mitrovica North³¹⁰, Gjilan³¹¹, and Stanishor.³¹² The purpose of these discussion roundtables was to bring together civil society representatives, officials from local municipal institutions and representatives of non-governmental organizations from the Serbian, Roma, Ashkali and Egyptian, Bosniak, Gorani and Turkish communities. The discussion aimed to address the human rights situation at the

305 <https://oik-rks.org/en/2024/06/11/ombudsperson-discusses-language-rights-in-gracanica/>

306 <https://oik-rks.org/en/2024/09/23/discussion-table-with-representatives-of-the-municipality-and-non-governmental-organizations-in-mamushe/>

307 <https://oik-rks.org/en/2024/11/08/ombudspersons-institution-presented-the-findings-from-meetings-with-citizens/>

308 <https://oik-rks.org/en/2024/02/27/the-ombudsperson-met-representatives-of-civil-society-and-local-institutions-of-the-prizren-region/>

309 <https://oik-rks.org/en/2024/02/08/ombudsperson-discussed-human-rights-with-local-and-civil-society-representatives-in-ferizaj/>

310 <https://oik-rks.org/en/2024/03/28/the-ombudsperson-met-the-representatives-of-ngos-in-north-mitrovica/>

311 <https://oik-rks.org/en/2022/05/23/the-ombudsman-discussed-human-rights-in-gjilan/>

312 <https://oik-rks.org/en/2024/06/04/ombudsperson-met-the-community-in-stanishor-to-discuss-human-rights/>

local level, promote respect for the rights of non-majority communities, strengthen mutual cooperation and provide information on the role and competences of the Ombudsperson Institution in promoting and protecting human rights.

During the meetings and discussions focusing on respecting the rights of non-majority communities, the following challenges and issues were identified that need to be addressed: *delays in judicial processes, especially in contentious cases; lack of respect for the right to use the mother language in legal proceedings; lack of property legalization, shortage of textbooks in the mother language; and inadequate communication in local languages during the provision and receipt of health services, particularly during administrative procedures and beyond.*

Promoting human rights through art

On June 5, 2024, the Ombudsperson Institution, in collaboration with the non-governmental organization EcoZ, which focuses on promoting a healthy and clean environment, and Save the Children Kosova/o, marked World Environment Day.

The purpose of this activity was to discuss environmental issues and challenges with children aged 7-15 from the Children's Environmental Assembly. The goal was to promote the right to a healthy living environment as a human right through art. At the end of this activity, children had the opportunity to express their ideas about a healthy living environment and human rights through their creativity, painting and drawing.



Thematic roundtables organized during 2024

In 2024, the Ombudsperson organized 16 thematic roundtables, some of which were organized in cooperation with partners. These discussion roundtables focused on discussing the state of human rights in the country, opportunities for further promotion, and ways to enhance protection. Additionally, the findings of the Ombudsperson's reports were presented.

Presentation of the report with recommendations on “Language in public discourse in relation to the state’s obligations in guaranteeing freedom of expression and preventing hate speech”

On February 6, 2024, during an organized roundtable, the Ombudsperson presented a report with recommendations on “Language in public discourse in relation to the state’s obligations in guaranteeing freedom of expression and preventing hate speech”³¹³. The report was discussed in two panels with the topics “Inappropriate language in public discourse” and “The role of local institutions in the protection of freedom of expression and respecting its limits”. The findings of the report emphasized the presence of indirect hate speech in parliamentary debates, the aggressive language used in television debates, and the comparatively lower occurrence of hate speech on social media platforms.

Promotion of the “Bouquet of Hearts” exhibition

On March 8, 2024, on the occasion of International Women's Day, the Ombudsperson hosted a meeting with a group of parents advocating for the rights of children with disabilities from the Handikos organization. During the meeting, an art exhibition titled “Bouquet of Hearts”³¹⁴ was presented at the Ombudsperson Institution premises. Through this exhibition 16 mothers

313 <https://oik-rks.org/en/2024/02/06/the-ombudsmans-report-on-language-in-public-discourse-is-presented/>

314 <https://oik-rks.org/en/2024/03/08/in-honor-of-womens-day-the-ombudsperson-hosted-a-meeting-with-the->

of children with disabilities conveyed messages of motivation, strength and support in the face of the challenges they go through. The meeting also emphasized the importance of enhancing state support for children with disabilities, creating accessible public spaces, ensuring equal treatment, providing assistive devices, and fully implementing the Law on the Protection of Children's Rights.



Roundtable discussion with representatives of the country's trade unions

On March 12, 2024, the Ombudsperson organized a roundtable discussion with trade union representatives from various sectors to address important issues related to employees' rights, social dialogue, and freedom of trade union organization.³¹⁵

Trade unions from sectors such as education, police, health, correctional services, firefighting services, customs, tax

administration, airport, and mining expressed concerns about the lack of dialogue with the executive branch. After discussions, an agreement was reached to organize a joint meeting with the government and relevant ministries to address the demands and concerns of trade unionists.



Roundtable discussion on the "Restoration of nationalized property rights"

On March 19, 2024, the Ombudsperson organized a roundtable discussion regarding the restoration of nationalized property rights, which was attended by representatives from the judicial system in the country.³¹⁶

The main focus of the meeting was to discuss (address) cases of private property expropriation without compensation during the communist period, and the modalities that the Republic of Kosovo should follow in order to compensate those owners whose properties were taken without compensation. The meeting concluded with a recommendation to enact the Law on Denationalization of Properties and to legally determine cases for compensation or, if feasible, the return of nationalized properties.

Roundtable discussion on the occasion of National Day for Missing Persons

On April 26, 2024, a roundtable discussion was organized to mark the National Day for Missing Persons. The event was attended by the Government Commission for Missing

[group-of-parents-with-children-with-disabilities/](https://oik-rks.org/en/2024/03/12/the-ombudsperson-met-the-representatives-of-the-trade-unions/)

315 <https://oik-rks.org/en/2024/03/12/the-ombudsperson-met-the-representatives-of-the-trade-unions/>

316 <https://oik-rks.org/en/2024/03/19/the-ombudsperson-organized-a-roundtable-entitled-restoration-of-nationalized-property-rights/>

Persons, the Institute for War Crimes in Kosovo, the Coordinating Council of the Family Associations of Missing Persons in Kosovo, and the Resource Center for Missing Persons.³¹⁷

The purpose of the roundtable was to discuss the state's obligations to ensure that families of missing persons have the right to know the truth about the fate of their forcibly disappeared family members and to guarantee justice for the victims, as well as the actions taken by the state so far. The findings of the Ombudsperson's Report, titled "Transitional Justice and the Implementation of its Mechanisms", were presented. The report evaluated the state's fulfillment of obligations to document war crimes and ensure justice for victims from a human rights perspective.



Roundtable discussion on “Respecting the right of citizens to health services, with an emphasis on sexual and reproductive health – as a human right”

On May 8, 2024, in cooperation with the NGO “Center for Equality and Justice”, a roundtable was organized in Prizren on the topic of “Respecting the right of citizens to health services, with an emphasis on sexual and reproductive health – as a human right”.³¹⁸

The purpose of the roundtable was to discuss

the findings of the Ombudsperson's Report on “Rights in Sexual and Reproductive Health”, as well as the level of implementation of recommendations by responsible authorities. The mayors of Suhareka and Dragash municipalities also participated in the roundtable, discussing the improvement of medical services and the challenges that need to be addressed in the healthcare sector.

Launching the Report on the Implementation of the Law on the Use of Languages in Municipalities and the Basic Court

On 23 May 2024, at a roundtable organized in cooperation with the Office of the Commissioner for Languages, the findings of the report on the implementation of the law on the use of languages in municipalities and the Basic Court were launched.³¹⁹ During the roundtable, the Ombudsperson emphasized the importance of implementing the Law on Languages to ensure the rights of citizens in public services. The report presented reflects the results of monitoring the official websites of municipalities and courts, showing that bilingualism is largely respected in most municipalities and Basic Courts. However, there are deficiencies in orientation inscriptions in some cases, such as in Graçanica and Prishtina, while more issues have been identified in South Mitrovica and Prishtina in this regard.

Roundtable discussion on the protection of children from sexual harassment

On June 25, 2024, a roundtable discussion was held to address the issue of protecting children from sexual harassment, criminal offenses against their life and body, as well as violations of their sexual integrity.³²⁰

317 <https://oik-rks.org/en/2024/04/26/a-panel-discussion-was-held-on-the-occasion-of-marking-the-national-day-for-missing-persons/>

318 <https://oik-rks.org/en/2024/05/08/sexual-and-reproductive-health-rights-discussed-in-prizren/>

319 <https://oik-rks.org/en/2024/05/23/oi-and-olc-launched-the-report-regarding-the-implementation-of-the-law-on-languages/>

320 <https://oik-rks.org/en/2024/09/23/discussion-table-for-the-improvement-of-inter-institutional-cooperation-for-the-protection-of-children/>

During the roundtable, the Ombudsperson expressed concern about the cases of child sexual abuse in Kosovo and emphasized the need for institutional action. He pointed out that these incidents create insecurity and danger for children, particularly girls, leading to physical, psychological and social consequences. These incidents also constitute a violation of children's rights, as guaranteed by international laws and conventions.

Roundtable discussion with international organizations in the country

On June 27, 2024, the Ombudsperson met with representatives of international organizations in the country to discuss the human rights situation in Kosovo and the need for closer coordination of activities. During the meeting, the Ombudsperson highlighted several challenging issues that still remain, such as delays in judicial procedures, lack of response from administrative institutions, and the absence of social dialogue and a general collective agreement, which limit workers' rights. Additionally, the revised 2021-2025 Strategy and the 2024-2025 Action Plan of the Ombudsperson Institution were presented, aiming to coordinate the implementation activities of various projects.



Roundtable discussion on the occasion of World Mental Health Day

On October 9, 2024, the National Mechanism for the Prevention of Torture (NMPT) within the Ombudsperson Institution organized a

roundtable discussion on the occasion of World Mental Health Day.

The purpose of this roundtable was to discuss the treatment of individuals with mental disorders, specifically focusing on involuntary and compulsory psychiatric treatment with detention; findings of the Ombudsperson and international mechanisms; and the challenges faced by mental health institutions in treating such cases. Representatives from public institutions highlighted the difficulties and issues they encounter when dealing with individuals suffering from mental health problems, particularly in regards to involuntary and compulsory treatment with detention.

Roundtable discussion on children's mental health

On November 18, 2024, a roundtable discussion was held regarding the mental health of children, where the preliminary findings of a report on the state's responsibilities in child protection were presented.³²¹ During the discussions, the lack of mechanisms for early identification of children facing mental health challenges was emphasized, as well as the limited access to specialized psychological support in primary and secondary care, and the shortage of psychologists was highlighted. Participants, including professionals working with children, stressed the importance of early identification, raising awareness among parents about stigma, providing dignified treatment, and strengthening mental health resources at the municipal level.

Presentation of the findings from the Ombudsperson's Report on the respect of the rights of survivors of sexual violence during the war, in the process of recognizing and verifying their status

On November 19, 2024, the Ombudsperson organized a roundtable³²² discussion to address the findings and recommendations outlined in the *ex-officio* Report on the respect of human rights during the recognition and

321 <https://oik-rks.org/en/2024/11/18/oi-held-a-panel-discussion-on-childrens-mental-health/>

322 <https://oik-rks.org/en/2024/11/19/the-ombudspersons-report-on-victims-of-sexual-violence-during-the-war-was-presented/>

verification process of the status of victims of sexual violence during the war in Kosovo.

Some of the findings outlined in the report are as follows: *a lack of a clearly defined timeframe for completing procedures; uncertainty about the legal remedies available to parties; the absence of a two-tier principle in the application review process; incomplete justifications for decisions; the failure of state institutions to provide psychosocial services; the lack of provision of identification cards; delays in court procedures; failure to ensure the provision of free health services in public primary, secondary and tertiary institutions for victims, and a deadline limitation for submitting requests for recognition and verification of status.* The President of Kosovo, who participated in the roundtable, emphasized the importance of healthcare assistance and the removal of restrictions on application deadlines, while the Minister of Justice endorsed the report and declared the Government's dedication to addressing the needs of victims through the Transitional Justice Strategy.



Roundtable discussion on women's property rights from a legal framework and practice perspective

On November 20, 2024, a roundtable discussion was held as part of marking the anniversary of the establishment of the Ombudsperson Institution. The topic of the discussion was "Women's property rights: Legal framework, theory and practice".³²³

During the roundtable, the Ombudsperson highlighted that only 20% of women are registered property owners, indicating deficiencies in the implementation of laws and the recognition of women's property rights. The main challenges in this area were identified as customary law, cultural norms, informality, lack of information on inheritance, and delays in judicial procedures. The conclusions of the meeting emphasized the need for the full implementation of laws, raising awareness among women about their rights and reducing informality in ownership.

Conference on launching the "Young Voices" report

On November 21, 2024, on the occasion of the World Children's Rights Day, a conference was held to launch the "Young Voices" report for 2024, which was realized by Save the Children Kosovo in cooperation with the Ombudsperson Institution³²⁴.

The "Young Voices" survey reflects the perspectives of 1,071 children from across Kosovo on important issues such as safety, education, climate change, and mental health. Some key survey results show that: 91% of children feel that municipalities should invest more in youth spaces; 64% would like to participate in public consultations; 26% do not know where to address depression; 37% do not know where to turn for assistance with violence; 68% believe that children experience discrimination; and 86% believe that schools should provide more support for children with disabilities.

323 <https://oik-rks.org/en/2024/11/20/the-ombudspersons-institution-held-a-roundtable-discussion-on-womens-property-rights/>

324 <https://oik-rks.org/en/2024/11/20/the-young-voices-report-for-2024-was-presented/>



Roundtable discussion on achievements and challenges in implementing the Istanbul Convention.

On November 27, 2024, as part of marking the 16 Days of Activism against Domestic Violence and Gender-Based Violence, the Ombudsperson, along with the Center for Equality and Justice and the Women's Association "Feminae", organized a roundtable in Prizren³²⁵ to discuss achievements and challenges in implementing the Istanbul Convention.

During the discussions, representatives from various institutions emphasized the need for close cooperation between state institutions, civil society, and the public to prevent violence against women. The importance of implementing electronic surveillance to protect victims of domestic violence and other crimes was also discussed.

Roundtable discussion on linguistic rights

On 10 December 2024, on the occasion of International Human Rights Day, the Ombudsperson, in collaboration with the Office of the Commissioner for Languages and IOM, organized a roundtable titled "Linguistic Rights: The Path to Fundamental Human Rights"³²⁶. This event was part of the supporting initiative within the program activity entitled "Advancing and Promoting Linguistic Rights – Phase 2".

During the roundtable discussions, the importance of linguistic rights in promoting inclusion, diversity, and equality, as well as their impact on fundamental human rights, was emphasized. The Ombudsperson stressed that the law on languages is not being fully enforced and called for increased institutional engagement and political will for their implementation.

Education on Human Rights

The advancement of education and information for citizens on human rights, as well as the mechanisms for their protection, has been a key focus of the Ombudsperson in 2024. Throughout the year, the Ombudsperson has organized a series of meetings and lectures with students and youth to engage in discussions about human rights issues and the role of the Ombudsperson Institution in safeguarding these rights. Field visits have also been conducted, particularly in primary and lower secondary schools, as part of the information campaign "Get to Know the Ombudsperson Institution". In addition, specialized training sessions have been held for newly appointed judges and prosecutors as a component of human rights education for legal professionals.

Activities of the Ombudsperson Institution in these fields are reflected in the following tables:

Type of activity	Purpose
Training for newly appointed judges and prosecutors	Informing legal professionals about human rights, their protection mechanisms, the role and mandate of the OI, and the procedures for receiving and addressing complaints
1. On April 15, 2024, the Ombudsperson welcomed the tenth generation of newly appointed prosecutors to the institution.	
2. On November 22, 2024, the Ombudsperson welcomed the newly appointed judges to the institution.	

325 <https://oik-rks.org/en/2024/11/27/a-roundtable-was-held-on-the-occasion-of-the-16-days-of-activism-against-domestic-violence-and-gender-based-violence/>

326 <https://oik-rks.org/en/2024/12/10/41595/>

Type of activity	Purpose
Lectures and meetings with students and youth	Education on human rights, their protection mechanisms, and information on the role and mandate of the OI and the procedures for receiving and addressing complaints
1.	On January 25, 2024, the Ombudsperson, and his deputies, met with students from the “European Master’s Degree in Human Rights and Democratization (EMA)” program based in Vienna, Austria, and Venice, Italy.
2.	On May 20, 2024, the Ombudsperson welcomed students from Florida State University, USA.
3.	On May 29, 2024, the Ombudsperson, in collaboration with the Organization for Education Quality Enhancement (ORCA), met with students from public universities in Kosovo, which meeting was held as part of the Congress of Student Activism.
4.	On July 16, 2024, the Ombudsperson met with a group of students participating in the Summer University Course, specifically in the Gender and Legislation group
5.	On December 2, 2024, the Ombudsperson held a lecture with students from Universum College, discussing human rights as well as the work and competencies of the Ombudsperson.
6.	On December 10, 2024, on the occasion of the International Human Rights Day, the Ombudsperson engaged in a discussion with students from the Law Faculty at the University of Prishtina “Hasan Prishtina”
7.	On December 13, 2024, the Ombudsperson met with students from the Law Faculty at the University “Ukshin Hoti” in Prizren.





With the aim of strengthening cooperation in the field of the rule of law through education and legal training, the Ombudsperson, Mr. Naim Qelaj and the rector of the University “Ukshin Hoti” in Prizren signed a memorandum of understanding on February 12, 2024.³²⁷ This collaboration will, among other things, facilitate access to study materials and practical cases developed by the Ombudsperson Institution for academic use, as well as organize study visits to the institution for students.

Progress in promoting human rights and equality, and plans for 2025

In 2024, the Ombudsperson conducted numerous activities to inform and raise awareness among citizens about human rights and fundamental freedoms. These activities included campaigns, meetings with citizens and representatives of non-majority communities to discuss daily challenges. Furthermore, meetings with civil society were organized to promote human rights and equality. These efforts led to a significant increase in information and awareness about

the Ombudsperson’s role, encouraging citizens to submit complaints and become more engaged in protecting their rights.

These efforts led to a significant increase in information and awareness about the Ombudsperson’s role, encouraging citizens to submit complaints and become more engaged in protecting their rights.

This commitment is also reflected in the assessment of the Kosovo Progress Report 2024, where it is emphasized that: ***“The OI continued to play a key role in promoting and enforcing human rights; it remains essential to safeguard it, in line with the Paris and Venice Principles”***.³²⁸

In 2024, the Ombudsperson will continue to carry out important activities, which are part of the Work Plan for 2024/2025 of the Civil Society Dialogue Forum. It will also continue with information campaigns and the implementation of joint projects with civil society and international organizations, focusing on further strengthening education on human rights and fundamental freedoms.

Moreover, the information campaign with students and teachers of primary and lower secondary schools on human rights and the mission of the OI *“Get to Know the Ombudsperson Institution”* will continue in 2025.

Cooperation with civil society, international organizations, and public institutions in the country

Throughout the year 2024, there has been a significant deepening of successful cooperation with civil society, international organizations, and public institutions, contributing to advocating for and protecting human rights. This cooperation has been further strengthened through the implementation of joint projects and various activities aimed at promoting human rights and raising awareness about the importance of protecting these rights. These activities reflect the ongoing dedication of institutions

³²⁷ <https://oik-rks.org/en/2024/02/12/oi-and-university-of-prizren-sign-a-memorandum-of-understanding/>

³²⁸ https://enlargement.ec.europa.eu/document/download/c790738e-4cf6-4a43-a8a9-43c1b6f01e10_en?filename=Kosovo%20Report%202024.pdf, p. 31

and civil society to creating a more just and equal society, demonstrating their joint efforts to address the needs and challenges of citizens.

In 2024, the Ombudsperson, the Deputy Ombudspersons, and the staff of the Ombudsperson Institution (OI) participated in a series of important events organized by local and international partners. These events served as platforms for discussing various issues in the field of human rights, where the OI actively contributed by presenting its mandate and expressing the institution's views on controversial human rights issues. Participation in these events enabled fruitful cooperation and the exchange of experiences, highlighting the OI's commitment to protecting fundamental human rights and freedoms, as well as strengthening inter-institutional cooperation.

The table below shows the numerical presentation of events where the Ombudsperson and the OI staff participated during 2024:

Type of activity	Numri
Roundtables organized by different institutions and civil society	60
Conferences organized by local and international partners	18
Workshops	11
Other promotional events and launch ceremonies for various activities or projects	20

Cooperation with international organizations as part of various projects

The OI continued implementing various human rights projects with international organizations. In this regard, the OI received support from UNDP through a two-day training session held on March 5-6, 2024. The training aimed to enhance the OI staff's capacity in handling and addressing environmental issues.



Presentation of the findings from the Ombudsperson's Report on the accessibility of sidewalks and public spaces

As part of cooperation with civil society organizations, representatives of the Ombudsperson participated in a roundtable discussion organized by Handikos in Ferizaj to mark International Wheelchair Users Day. During the event, they presented the *ex-officio* Report³²⁹ along with recommendations for evaluating the accessibility of sidewalks and public spaces for individuals with disabilities³³⁰. The findings of the report for Ferizaj, one of the cities included in the research, showed that approximately 66% of the sidewalks evaluated do not meet the basic requirements for safe and independent movement due to the presence of physical obstacles and damages. Municipal authorities present at the meeting were urged to pay extra attention to fulfilling accessibility criteria when issuing construction permits and during the implementation phase of projects.



329 <https://oik-rks.org/2023/09/25/raport-i-avokatit-te-popullit-ex-officio-nr-6482021-ne-lidhje-me-qasjen-ne-trotuare-hapesira-publike-dhe-levizjen-e-lire-te-qytetareve-si-dhe-respektimin-e-se-drejte-per-mjedis-te-sigurt-dhe-te-s/>

330 <https://oik-rks.org/2024/03/01/>

On May 23, 2024, the Ombudsperson and the Executive Director of Save the Children Kosovo/o signed a Memorandum of Understanding with the aim of promoting inclusiveness, equality, transparency, and accountability for quality education and vocational development. This initiative serves the country's economic growth and the advancement of human rights.

On September 27, 2024, the Ombudsperson Institution and the Office of the Commissioner for Languages held a joint meeting to discuss the new implementation phase of the project "Promoting and Advancing Language Rights in Kosovo".

The second phase of the project involves a series of activities including promotional events, training sessions for translators and journalists, and other activities. The project is funded by UNMIK and implemented by IOM.

Discussion on the Civil Society Report on the State of Human Rights

Cooperation with civil society continued in 2024 as part of the implementation of joint projects for the promotion of human rights and fundamental freedoms.

On July 17, 2024, the Ombudsperson organized a meeting with civil society organizations to discuss the findings from the 2023 Civil Society Report on the State of Human Rights.³³¹ Civil society representatives evaluated the significance of addressing the issues raised in the report by the Ombudsperson and requested that this cooperation continue. The Ombudsperson, in turn, emphasized that many recommendations from this report will be further incorporated into the institution's work. The Work Plan for 2024/2025 of the Dialogue Forum, developed in cooperation with civil society, was also discussed.



Civil Society Dialogue Forum

In 2024, the Dialogue Forum continued its work and activities aimed at taking joint action to protect and promote human rights in the country. Throughout the year, the Forum held three (3) regular working meetings.

First regular working meeting for 2024

On April 19, 2024, the first working meeting for the year 2024 of the Forum for Dialogue between the Ombudsperson Institution and Civil Society Organizations was held³³². During this meeting, reports published by the Ombudsperson on safety and health at work, language used in public discourse, accessibility in public spaces and facilities for individuals with disabilities, employment, the re-evaluation process in medical commissions, and the report on the quality of translation of legal acts and their linguistic inconsistency were presented.

One of the main issues raised as a matter of great concern was the frequent cases of women being murdered, highlighting the lack of reporting of domestic violence and gender-based violence cases. Additionally, topics such as sexual harassment in schools and universities, mental health and its impact on the well-being of citizens, as well as other topics affecting non-majority communities were discussed.

At the end of the meeting, a posthumous acknowledgment was presented for the

331 <https://oik-rks.org/en/2024/09/23/ngos-discuss-with-the-ombudsman-their-report-on-the-state-of-human-rights/>

332 <https://oik-rks.org/en/2024/04/19/the-regular-working-meeting-of-the-forum-for-dialogue-between-the-ombudspersons-institution-and-civil-society-organizations-was-held/>

contribution made by the late activist, Mr. Naim Osmani, former executive director of the CRPK organization. This acknowledgment was presented to his family as a sign of recognition for his contribution in the field of human rights.

Drafting the Work Plan for 2024/2025

On May 22, 2024, a three-day workshop was held between the Ombudsperson Institution and Civil Society Organizations with the aim of drafting the Work Plan for 2024/2025 of the Civil Society Dialogue Forum.

The workshop focused on evaluating the current functioning and accomplishments as part of cooperation in this Forum. Priority activities and topics to be addressed in 2024 were also established. The workshop was organized with the support of the NGO ACDC and UNMIK.

Second regular working meeting for 2024

On June 12, 2024, the second regular working meeting of the Dialogue Forum took place.³³³ During the meeting, the Work and Activity Plan for 2024/2025, developed in cooperation with civil society organizations, was presented. Cooperation in the joint implementation of activities to promote and protect human rights in the country was also discussed.

The Action Plan for 2024/2025 focuses on the shared commitment to address issues such as: *mental health treatment and institutional care for children and citizens over the age of 65, protection of children from violence, gender equality, environmental protection, protection of the rights of children and the rights of persons with disabilities, among others*. The following issues that needed immediate attention were identified: *the lack of provision of services for people over the age of 65 in the Draft Law on Mental Health, as well as the lack of social services for children with disabilities, children without parental care, and children in street situations*.



Third regular working meeting for 2024

On October 29, 2024, the third regular working meeting for the year 2024 of the Forum for Dialogue between the Ombudsperson Institution and Civil Society Organizations was held³³⁴. Current challenges in the field of human rights and the coordination of activities for the celebration of December 10, International Human Rights Day, were discussed.

During the meeting, representatives of civil society organizations brought attention to several issues of importance to citizens, such as: *the role of local community councils, listening and addressing their concerns; the mobilization of several organizations to monitor language used during the election campaign; challenges faced by children with hearing impairments in the educational process such as: the lack of sign language and pedagogical skills among teachers, shortage of used materials, lack of sign language interpreters, and the absence of sign language as a teaching subject*.

International cooperation

Cooperation among National Human Rights Institutions (NHRIs) is of fundamental importance in promoting and protecting human rights at national, regional, and international levels. By sharing knowledge, experiences, and best practices, these institutions can address common challenges, strengthen institutional capacities, and contribute to the advancement of universal human rights principles. International

333 <https://oik-rks.org/en/2024/06/12/the-work-plan-between-oi-and-csos-is-presented/>

334 <https://oik-rks.org/en/2024/10/31/the-meeting-of-the-forum-for-dialogue-between-the-ombudsperson-institution-and-civil-society-organizations-is-held/>

cooperation within the global human rights system, including United Nations mechanisms and regional organizations, is an indispensable tool in enhancing the effectiveness of NHRIs. This cooperation not only provides greater access to international resources and expertise but also ensures the representation and advocacy of shared concerns on global platforms.

The independence of National Human Rights Institutions (NHRIs) is vital for their effective functioning. Independence, both in terms of mandate and in the operations of these institutions, is a crucial prerequisite for their credibility, impartiality, and ability to hold public authorities accountable. An independent NHRI ensures public trust and creates an environment where human rights violations can be investigated without undue interference or influence.

The Paris Principles³³⁵, adopted by the United Nations General Assembly, along with the Venice Principles³³⁶ adopted by the Council of Europe, form the international basis for guaranteeing the independence, mandate, and effective functioning of National Human Rights Institutions (NHRIs) and Ombudsperson institutions. These standards emphasize the significance of these institutions being legally established, having financial and operational autonomy, and carrying out their mandate without political influence. Adhering to these global standards enables NHRIs to fulfill their crucial role as defenders of human rights, enhancing accountability, transparency, and the protection of human rights and fundamental freedoms.

In 2024, the Kosovo Ombudsperson Institution faced a threat to its independent functioning when, on May 23, 2024, the Assembly of the Republic of Kosovo belatedly reviewed and did not approve the Annual Report for 2022, despite receiving approval and recommendations for approval from

three functional committees of the Assembly.

The Ombudsperson consistently tries to draw attention to the fact that the purpose of presenting the Annual Report to the Assembly is to ensure that the issues raised within it, as well as the state of human rights and freedoms in the country and their respect by the authorities, are discussed and addressed by the Assembly. The Assembly has the power and duty to advance the Ombudsperson's recommendations, holding public authorities accountable and responsible when necessary. A vote in favour or against does not change, nor it does alter the reality or situation regarding human rights and freedoms in the country. Simply voting in favour of the Annual Reports, without parliamentary debate and subsequent legislative actions that impact the respect for the rights of the country's citizens, is meaningless.³³⁷

Regarding this issue, there was a strong international reaction from some of the networks that OI is a member. The European Network of National Human Rights Institutions (ENNHRI) and the European Network of Equality Bodies (Equinet) stated in their joint letter dated June 7, 2024, addressed to the Assembly and the Presidency of the Republic of Kosovo, that they had received information with concern about the non-approval of the Ombudsperson's Annual Report for 2022. They called for ensuring compliance with international and regional standards applicable to national human rights institutions, Ombudsperson institutions, and equality bodies, in order to prevent any negative impact on the independent and effective functioning of the institution. In this letter, it is emphasized that *"A fundamental requirement of the Paris Principles is that National Human Rights Institutions (NHRIs) should be able to operate without political interference. Governments are obligated to respond to the recommendations of NHRIs*

335 The Paris Principles are the minimum criteria that a national human rights institution must meet in order to be considered credible, independent and effective in the international arena. The full document is available at: <https://ganhri.org/paris-principles/>

336 Principles for the Protection and Promotion of Ombudsperson Institutions (Venice Principles), Venice Commission, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2019\)005-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)005-e)

337 <https://oik-rks.org/en/2024/05/27/>

and indicate within a reasonable timeframe how they have been implemented. This is further supported by the Recommendation for NHRIs from the Committee of Ministers of the Council of Europe, which stipulates that states should ensure NHRIs present their annual reports to the Assembly for consideration and that effective follow-up on NHRIs' recommendations should be ensured within a reasonable timeframe. The Venice Principles also emphasize that annual reports should be taken into account by authorities. Similarly, General Policy No. 2 of the European Commission against Racism and Intolerance (ECRI) recommends that equality mechanisms should operate independently at the operational level, free from interference from the state, political parties, or other actors". Furthermore, it explicitly recommends that the annual reports of equality mechanisms should be discussed in the assembly or its committees and by the government, but they should not be subject to their approval. The independence of the institutions is also outlined in the recently adopted EU Directives No. 2024/1499 and 2024/1500, which set standards for equality bodies. Member states are required to implement measures to ensure that equality mechanisms act independently and free from any external influence. These institutions should not seek or accept instructions from the government or any other public or private entity, in the performance of their duties or exercise of their powers, which also include the drafting of the annual activity report." The situation created in the parliamentary session of May 23, 2024, signals a disregard for these standards, as it undermines the system of institutional checks and balances and the role of the Assembly itself.

Furthermore, the Ombudsperson, Mr. Qelaj, received immediate support from the International Ombudsperson Institute (IOI). They affirmed their support through a meeting and a subsequent letter, reiterating their commitment to assist and respond whenever the Ombudsperson Institution of Kosovo (OI) faces similar challenges or threats in the future.

Regarding the same issue, the main

international organizations operating in Kosovo sent a joint letter to the President of the Assembly of the Republic of Kosovo on July 9, 2024. They requested respect for the independence of the Ombudsperson Institution. In this letter, these organizations, referred to established international standards and requested the Assembly to review the Ombudsperson's annual reports in a timely manner, in accordance with the law. They also urged the Assembly to consider the findings and recommendations of the Ombudsperson and ensure their implementation in line with the Paris Principles and the Venice Principles. Meanwhile, the Human Rights Network (HRN), reacted to this action of the Assembly, adding: *"This behaviour of the Assembly, by not holding any parliamentary debate regarding the OI report, not voting on this report, and delaying the review of this report by about a year, clearly shows the Assembly's lack of respect for human rights and the work of the OI itself. The Assembly's approach, easily voting against the approval of this report, demonstrates a tendency of the Assembly to interfere with the independence of the OI's work and can be seen as an attempt to pressure an independent constitutional mechanism such as the OI".*

When discussing international human rights standards, it is important to note that the international and regional systems are continuously working to establish appropriate standards to address current challenges and those anticipated for the future in the field of human rights. In this regard, significant international developments in 2024 have contributed to strengthening of human rights standards.

Among these developments are the Council of Europe Framework Convention on Artificial Intelligence (AI) and Human Rights, Democracy and the Rule of Law, adopted on May 17, 2024 by the Committee of Ministers, as well as the EU Artificial Intelligence Act (AI Act), adopted by the European Union and entering into force on August 1, 2024, represent steps forward in addressing the challenges presented by the increasing impact of technology on society.

The Council of Europe Framework Convention on Artificial Intelligence (AI)³³⁸, is the first binding international instrument on artificial intelligence. It establishes a robust framework to ensure that the use of artificial intelligence respects human rights, democracy, and the rule of law. Similarly, the EU Artificial Intelligence Act³³⁹ aims to regulate the use of artificial intelligence by addressing its potential risks and establishing measures to prevent discrimination and harm, particularly in high-risk sectors such as health, employment, and justice.

The Ombudsperson Institution plays a crucial role in monitoring the implementation of these standards and ensuring that national laws align with international developments. Therefore, its involvement in international and regional mechanisms is essential to ensure that global standards are translated into concrete measures, including protection against technological abuse and respect for human rights and equality.

In this context, through cooperation with counterpart institutions, international organizations and networks, the Ombudsperson Institution can leverage significant resources and expertise to strengthen its effectiveness and address global human rights challenges. These efforts not only enhance responses to national challenges and the implementation of international obligations at the local level, but also strengthen Kosovo's contribution to the global dialogue on human rights.

During the reporting year, the Ombudsperson Institution officially adopted the Revised Geneva Declaration on the Rights of the Child³⁴⁰, reaffirming its commitment to promoting and protecting children's rights. The Declaration, with its renewed commitments, was officially unveiled on November 20, 2024, Universal Children's Day, marking the 100th anniversary of the League of Nations adopting the original Geneva Declaration on the Rights of the Child. This endorsement aligns with the OI's ongoing efforts to

strengthen the legal and policy framework for protecting children, especially those in vulnerable groups. This action reflects the Institution's proactive approach to promoting international standards and integrating them into local practices.

Participation in international meetings

Cooperation with counterpart institutions and international organizations remains a crucial aspect of the Kosovo Ombudsperson Institution's efforts to promote and protect human rights.

During the reporting period, the Ombudsperson Institution of Kosovo (OI) has strengthened its engagement with Ombudsperson institutions in the region and beyond. This includes exchanging good practices, experiences, and forming partnerships to address common challenges. Additionally, cooperation with international organizations, such as international networks where the OI is a member, has been essential in enhancing the Institution's ability to tackle systemic issues and advocate for aligning domestic practices with international standards. These joint efforts have not only increased the Institution's impact but have also contributed to a broader regional and global dialogue on human rights.

Furthermore, the OI receives questionnaires annually on various thematic topics from international organizations to report on the human rights situation in Kosovo and exchange best practices for research and comparative purposes. This year, 23 such reports were submitted on various aspects of the human rights situation in Kosovo.

The OI prioritizes international cooperation and will continue to be present at various international meetings and forums that contribute to strengthening advocacy for human rights, capacity building, and the exchange of best international experiences.

338 <https://rm.coe.int/1680afae3c>

339 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32024R1689>

340 <https://declaration2024.org/signatories/>

In 2024, the OI participated in 73 international events, with 38 being physical participation

and 35 being online, as listed in the table below.

No.	Description of activity	Date	Organizer
1.	Leadership Forum of the European Network of National Human Rights Institutions (ENNHRI) Brussels, Belgium	January 22-24, 2024	ENNHRI
2.	Training for Trainers "Inclusion of Foreigners in the Western Balkans – Access to Social and Economic Rights" Podgorica – Montenegro	January 22-24, 2024	Macedonian Young Lawyers Association (MYLA)
3.	Extraordinary General Assembly Meeting of the European Network of National Human Rights Institutions (ENNHRI) Online	February 7, 2024	ENNHRI
4.	Meeting on human rights and non-majority communities and ongoing practices Brussels, Belgium	February 12-14, 2024	European Parliament
5.	Preparatory meeting for the roundtable discussion "New Partnership for the Rule of Law, Democracy and Human Rights in Enlargement Countries" Online	February 16, 2024	ENNHRI
6.	Roundtable discussion "New Partnership for the Rule of Law, Democracy and Human Rights in Enlargement Countries" Brussels, Belgium	February 20, 2024	ENNHRI
7.	Training on child participation and child protection when working with children in alternative care Online	February 27, 2024	ENOC/ENYA
8.	Webinar "A living conditions affair for people with disabilities: Accessibility, infrastructure and habitat" Online	February 27, 2024	EQUINET
9.	Fundamental Rights Forum "Rights in Motion: Embracing Human Rights for Europe's Future" Online	March 11-12, 2024	FRA

No.	Description of activity	Date	Organizer
10.	Meeting of the Working Group on Asylum and Migration of the European Network of National Human Rights Institutions Online	March 14, 2024	ENNHRI
11.	Meeting on “Collaborative Strategies in Addressing Hate Speech: A Multidimensional Approach” Online	March 21-22, 2024	Council of Europe
12.	Webinar “Equality bodies promoting the rights of rainbow families” Online	March 26, 2024	EQUINET
13.	Webinar on the topic “Promoting human rights: The role of Ombudsperson institutions” Online	March 26, 2024	African Ombudsperson Research Centre (AORC) in collaboration with the International Ombudsperson Institute (IOI)
14.	Training on “Detention Monitoring and the Protection of Human Rights while Preventing and Countering Violent Extremism and Radicalization that lead to Terrorism in Prisons” Skopje, Macedonia	March 26-27, 2024	ODIHR
15.	Study visit to Finland Helsinki, Finland	April 15-18, 2024	UNMIK/IOM
16.	Training of Trainers “Inclusion of Foreigners in the Western Balkans - Access to Social and Economic Rights” Belgrade, Serbia	April 16-19, 2024	Macedonian Young Lawyers Association (MYLA)
17.	Preparatory meeting on consultations on fundamental rights in enlargement countries Online	April 17, 2024	EU Directorate-General for Neighbourhood, Enlargement and Negotiations (DG NEAR) & ENNHRI
18.	Equinet Working Group Meeting on the Legal Framework for Equality and Training for Equality Bodies Providing their Opinions in Courts Dublin, Ireland	April 17-19, 2024	EQUINET
19.	Online Training Program on Empowering Women in Public Service Online	May 6-24, 2024	Vienna Diplomatic Academy/Vienna School of International Studies
20.	Annual Meeting of the Global Alliance of National Human Rights Institutions (GANHRI) Geneva, Switzerland	May 6-8, 2024	GANHRI

No.	Description of activity	Date	Organizer
21.	TAIEX Multi-country Workshop on Standards for Equality Bodies Tirana, Albania	May 14-15, 2024	TAIEX & Commissioner for Protection Against Discrimination of Albania
22.	Berkeley Center on Comparative Equality and Anti-Discrimination Law Webinar on the Impact of Artificial Intelligence on the Rights of LGBTQI+ People Online	May 16, 2024	EQUINET
23.	General Assembly and World Conference of the International Ombudsperson Institute (IOI) The Hague, Netherlands	May 13-17, 2024	IOI
24.	Seminar of the Forum of Cooperation between the Ombudsperson Institution and Civil Society Durrës, Albania	May 20-22, 2024	NGO ACDC & UNMIK
25.	Spring Seminar of the European Network of Ombudspersons for Children (ENOC) on the topic: "The Protection and Promotion of the Rights of Children in Alternative Care" and "The Rights of Children with Imprisoned Parents" Tallinn, Estonia	June 3-4, 2024	ENOC
26.	Meeting on the independence of HRMIs and the ENNHRI response to threats Online	June 4, 2024	ENNHRI
27.	European National Preventive Mechanisms (NPM) Forum Strasbourg, France	June 4-5, 2024	Council of Europe
28.	Online meeting on the evaluation of the functioning of the European Network of National Human Rights Institutions (ENNHRI) Online	June 10, 2024	External evaluator, who has been hired to carry out the Monitoring and Evaluation of the ENNHRI
29.	Meeting of the Age Working Group of the European Network of Equality Bodies (EQUINET) Online	June 11, 2024	EQUINET
30.	Webinar on the topic "Artificial Intelligence and Intersectionality: How to prevent and combat discrimination?" Online	June 14, 2024	EQUINET

No.	Description of activity	Date	Organizer
31.	Special event on the topic "Children in Migration" Online	June 20, 2024	European Migration Network (EMN) & Luxembourg Ombudsman for Children and Youth (OKAJU)
32.	Academy of National Human Rights Institutions on the topic "Securitization and Human Rights – The Role of NHRIs" Bratislava, Slovakia	June 16-21, 2024	ENNHRI/ ODIHR
33.	Consultative meeting on the specific needs and challenges of NHRIs operating in or around conflict zones Online	June 25, 2024	ENNHRI
34	14th Meeting of the CoE-FRA- ENNHRI-Equinet Collaborative Platform, on the theme "Youth Access to Social and Economic Rights: Addressing the Impact of the Crisis on Living Conditions" & ENNHRI Working Group Meeting on Economic, Social and Cultural Rights Vilnius, Lithuania	July 1, 2024 July 2, 2024	Council of Europe
35.	Network meeting "From hate speech to hate crime - Equality bodies in the transition to addressing forms of racism in society" Strasbourg, France	July 1-2, 2024	Council of Europe
36.	Meeting "Fighting racism: promoting European standards" Strasbourg, France	July 3-4, 2024	Council of Europe
37.	Bilateral Meeting of the Ombudspersons of Kosovo and Albania "Exchange of good practices and experience in fulfilling the mandate of the Ombudsperson in the respective countries" Peja, Kosovo	July 3-5, 2024	IAP
38.	Study visit "Sharing Slovak expertise with the Kosovo Ombudsperson Institution in the field of protection of human rights and fundamental freedoms" Bratislava, Slovakia	July 8-13, 2024	SlovakAid
39.	International Conference of Ombudsperson "The Role of the Ombudsperson as a Guarantor of Rights" Cassino and Montecassino, Italy	September 12-13, 2024	Ombudsperson of the Lazio Region

No.	Description of activity	Date	Organizer
40.	EQUINET Equality Bodies Standards Project Meeting Online	September 17, 2024	Equinet
41.	28th Annual Conference and General Assembly of the European Network of Ombudspersons for Children (ENOC) Helsinki, Finland	September 18-20, 2024	ENOC
42.	Equinet Webinar on the topic: "A Gender Perspective on Employment in the Age of Artificial Intelligence" Online	September 20, 2024	Equinet
43.	ENNHRI Working Group on Artificial Intelligence Capacity Building Meeting Brussels, Belgium	September 23-24, 2024	ENNHRI
44.	Roundtable discussion on the topic: "Monitoring Effective Access to Quality Healthcare for Roma and Racialised Communities" Online	September 25, 2024	Equinet
45.	Conference of the National Preventive Mechanisms (NPM) Forum on the topic: "Improvement and Safeguards of Health Conditions of Persons Deprived of Liberty with substance use disorders (SUD)" Strasbourg, France	September 24-25, 2024	Council of Europe
46.	ENNHRI Working Group Meeting on Asylum and Migration Online	September 25, 2024	ENNHRI
47.	Online meeting on the topic: "Strengthening the role of NHRIs as protection mechanisms for Human Rights Defenders" Online	September 26, 2024	ENNHRI
48.	16th Conference of Ombudsperson Institutions for the Armed Forces (16ICOAF) Germany, Berlin	September 30-October 2, 2024	The German Parliamentary Commissioner for Armed Forces and the Geneva Centre for Security Sector Governance (DCAF)
49.	Warsaw Human Dimension Conference, session on National Human Rights Institutions Warsaw, Poland	October 7, 2024	ODIHR (Office for Democratic Institutions and Human Rights) within the OSCE

No.	Description of activity	Date	Organizer
50.	High-Level Workshop on the Historic Adoption of the Equality Standards Directives Brussels, Belgium	October 15, 2024	EQUINET
51.	Annual Meeting of the General Assembly of the European Network of Equality Bodies (Equinet) Brussels, Belgium	October 15-16, 2024	EQUINET
52.	Informal Meeting of the OSCE Permanent Council Vienna, Austria	October 16, 2024	OSCE
53.	Meeting of the General Assembly of the European Network of National Human Rights Institutions (ENNHRI) Brussels, Belgium	October 28-29, 2024	ENNHRI
54.	Meeting on the role and functions of HRNIs operating in armed conflicts Brussels, Belgium	October 29-30, 2024	ENNHRI
55.	Regional Conference "Alignment of the national legal and policy framework in the field of accessibility, inclusion of persons with disabilities in political and public life with the Convention on the Rights of Persons with Disabilities in 3 Western Balkan countries, Albania, Kosovo and the Republic of North Macedonia and recommendations for harmonization" Tirana, Albania	October 29, 2024	HANDIKOS Kosova
56.	Official visit of the children's department from the Albanian Ombudsperson Institution, with the aim of exchanging experiences Prishtina, Kosovo	November 5-7, 2024	OI
57.	Fourth UN Regional Forum on Business and Human Rights for Europe and Central Asia Budva, Montenegro	November 11-12, 2024	UNDP
58.	Consultative Meeting on Economic, Social and Cultural Rights in Europe Online	November 12-13, 2024	OHCHR & Swedish Institute for Human Rights, Danish Institute for Human Rights, Raoul Wallenberg Institute and German Institute for Human Rights
59.	Study visit to the German Parliament Berlin, Germany	November 11-14, 2024	NGO CASA (Center for Affirmative Social Action)

No.	Description of activity	Date	Organizer
60.	Webinar on the topic: "Integrating monitoring and reporting on sexual and reproductive health rights" Online	November 18, 2024	ENNHRI & UNFPA
61.	Meeting "Strengthening the capacity of government institutions and equality bodies to promote policies and measures against racism" Online	November 19, 2024	Council of Europe
62.	Meeting "Enhancing the role of equality bodies in raising awareness and promoting counter-narratives to combat hate speech" Online	November 19, 2024	Council of Europe
63.	Regional Conference on Environment and Human Rights Skopje, North Macedonia	November 19-21, 2024	Ombudsperson of North Macedonia, GANHRI, ENNHRI, UNDP
64.	Seminar "Climate Change and the focus on its impact on equality: Tools for equality bodies" Online	November 20-21, 2024	EQUINET
65.	South East Europe NPM Network Meeting Vienna, Austria	November 29-29, 2024	Austrian Board of Ombudspersons
66.	Webinar "Equality bodies support strategic judicial proceedings on LGBTI rights at national and EU level" Online	December 3, 2024	IGLA Europe
67.	Information session "Demystifying the European Union Act on Artificial Intelligence: Implications for the work of Equality Bodies" Online	December 4, 2024	Equinet
68.	Third meeting of the Working Group on Standards for Equality Bodies Online	December 5, 2024	Equinet
69.	Marking the 30th Anniversary of the Establishment of the Ombudsperson Institution in Slovenia & High-Level Conference on the Effectiveness of Ombudsperson Institutions and NHRIs in Addressing Contemporary Challenges Bled & Ljubljana, Slovenia	December 5-6, 2024	Ombudsperson of Slovenia
70.	High-Level Conference "Coding Equality in the EU Artificial Intelligence Act: Equality Bodies Preparing for the Challenges" Online	December 12, 2024	Equinet

No.	Description of activity	Date	Organizer
71.	Extraordinary Assembly Meeting of the European Network of Ombudspersons for Children (ENOC) Online	December 13, 2024	ENOC
72.	Workshop “Digital Horizons: Data Protection in the Age of Innovation” Ohrid, North Macedonia	December 16, 2024	Albanian Helsinki Committee, Civil Rights Program in Kosovo, Helsinki Committee of North Macedonia and Helsinki Committee for Human Rights in Serbia
73	ENNHRI Working Group Meeting on Artificial Intelligence Online	December 16, 2024	ENNHRI

Table 1: Participation in international meetings

Membership in international organizations

The membership of National Human Rights Institutions (NHRIs) in international mechanisms and networks helps to strengthen the dynamic relationships that should exist between them and the

international human rights system. As the OI is already a member of the most important international networks and organizations, this year it has made a concerted effort to engage with them by organizing joint meetings, exchanging information, and sharing good practices, which helps to promote international cooperation.

Below is a table presenting the international mechanisms where the OI is a member:

No.	Network/Mechanism	Year of membership
1.	European Ombudsperson Institute (EOI)	2002
2.	Children's Rights Ombudspersons' Network in South-East Europe (CRONSEE)	2009
3.	International Ombudsperson Institute (IOI)	2012
4.	European Network of National Human Rights Institutions (ENNHRI)	2013
5.	Association of Ombudsmen and Mediators of the La Francophonie (AOMF)	2015
6.	International Conference of Ombuds Institutions for the Armed Forces (ICOAF)	2015
7.	Association of Mediterranean Ombudsmen (AOM)	2016
8.	Network of Ombudsmen for the Environment and Human Rights	2017
9.	European Network of Equality Bodies (EQUINET)	2019
10.	European Network of Ombudspersons for Children (ENOC)	2022

Table: List of IAK memberships in international networks

The OI is also invited and participates in the activities of several other mechanisms and networks, where it is only an observer member due to political barriers. These include:

- Global Alliance for National Human Rights Institutions - GANHRI (which evaluates NHRIs compliance with the Paris Principles)³⁴¹;
- Network of National Torture Preventive Mechanisms in South-East Europe - SEE NPM (where the OI attends various meetings focused on cooperation, promotion, and sharing of experiences in protecting the rights of individuals deprived of liberty).³⁴²

³⁴¹ A condition for membership in this organization is Kosovo's membership in the United Nations.

³⁴² A condition for membership in this regional network is Kosovo's accession to the Optional Protocol to the Convention against Torture.

Agenda 2030 and the Sustainable Development Goals - The Role of the Ombudsperson as a National Human Rights Institution

During the reporting year, the Ombudsperson maintained its dedication to protecting and promoting human rights in accordance with international obligations. This included a greater impact on the implementation of the 2030 Agenda and the Sustainable Development Goals (SDGs). This dedication aligns with the Ombudsperson's significant role as a National Human Rights Institution (NHRI).

It is important to remember that on September 25, 2015, the United Nations General Assembly adopted the 2030 Agenda for Sustainable Development through Resolution A/RES/70/1. This agenda serves as a global action plan, consisting of 17 objectives, 169 specific targets, and 231 corresponding indicators. Subsequently, on January 25, 2018, the Assembly of the Republic of Kosovo expressed its readiness to engage in the implementation of this global framework, through Resolution No. 06-R-001 which adopted the Sustainable Development Goals (SDGs). Following this, the Sustainable Development Council

was established in October 2018 as an inter-institutional mechanism within the Assembly to facilitate coordination efforts towards achieving the Agenda. This Agenda embodies a universal vision embraced by states, focusing on *people, prosperity, planet, peace and partnership* as the key pillars supporting sustainable and genuine development.

Furthermore, the 2030 Agenda is fundamentally based on the principles of human rights, equality and non-discrimination. It represents a commitment to eradicating poverty and inequality, achieving human dignity, and a promise not to leave anyone behind in order to reach those who are left behind first. The connection of the Agenda with human rights is emphasized in the *Mérida Declaration*³⁴³ on the role of NHRIs in the implementation of the 2030 Agenda. It is stated that the Agenda strongly embodies the United Nations Charter³⁴⁴, the Universal Declaration of Human Rights³⁴⁵, and international treaties and instruments.

Institutions of this nature, wherever they operate, apply a *human rights-based approach*.³⁴⁶ In accordance with this approach, during the reporting year, the Ombudsperson has established a link between the objectives and goals of the SDGs with the data originating from the complaints addressed to the OI. This integration of these objectives into the daily activities of the OI, specifically through their connection with the nature of individual and systematic cases handled by the OI, utilizes the database system.

The new database in the OI, which became operational on January 1, 2024, allows any registered complaint to be linked to the respective objectives. This provides a powerful tool for the analysis and evaluation of the policies and measures that the state has undertaken or plans to undertake in order to fulfill international commitments

343 <https://ennhri.org/our-work/topics/sustainable-development-goals/#:~:text=The%20M%C3%A9rida%20Declaration%2C%20adopted%20by,human%20rights%20and%20sustainable%20development.>

344 <https://www.un.org/en/about-us/un-charter>

345 <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

346 <https://ennhri.org/about-nhris/human-rights-based-approach/>

and ensure sustainable development. This process also helps identify shortcomings and opportunities for improvement, ensuring that human rights and sustainable development are part of a coordinated and long-term benefit-oriented strategy for citizens.

As a result of this process, the Ombudsperson has, for the first time, generated statistics on complaints and cases opened at the OI, related to the 17 objectives of the 2030 Agenda. These relevant statistics can be found in the statistics section of this report. The Ombudsperson considers that generating these statistics is an important step in monitoring and evaluating the state's commitments to achieving these objectives. It also helps assess the progress of implementing the SDGs at the national level.

Furthermore, the corresponding commitment aligns with OI's goals to focus not only on protecting rights, but also on complying with global priorities that support sustainable development and ensure equality for all individuals.

Additionally, cases related to social rights and those involving vulnerable groups have been identified as fully compatible with the principles and objectives of the Agenda. This has facilitated the identification of specific measures that competent authorities need to take, in line with OI's recommendations and findings.

During the reporting year, the Ombudsperson ensured that their reports with recommendations and opinions addressed to public authorities were aligned with the objectives of the 2030 Agenda and closely connected to the fulfillment of international human rights standards. Acting as a bridge between public authorities and citizens, the Ombudsperson provided support and recommended that public authorities not only respect and fulfill human rights as guaranteed by the country's laws, but also work towards implementing the objectives of the 2030 Agenda.

In conclusion, the Ombudsperson has continued to fulfill their role as a monitor and advisor in the implementation of human rights,

directly contributing to the achievement of the objectives of the 2030 Agenda and ensuring that no one is left behind.

Communication with the public and the media

In fulfilling its constitutional and legal mission, as well as in the function of protecting and promoting human rights, the Ombudsperson has communicated with the public by enhancing cooperation with the media. This has been achieved through the publication of materials that showcase the work and activities of the institution, either by responding to media inquiries to gather opinions, stances, or obtain data related to specific cases or areas of human rights and freedoms. Throughout the reporting year, the media have covered and provided coverage to events, as well as reported on reports containing recommendations and opinions of the Ombudsperson. Depending on the circumstances, the media have also sought the stance or opinion of the Ombudsperson on the topics they have covered. Many of them have been presented by community media, particularly by the Serbian community.

Based on media reports, the Ombudsperson has initiated 7 cases of *ex-officio* investigations. This fact is an indicator of the importance of accurate and professional media reporting for the public. Investigative journalism plays a crucial role in reporting cases of violations and infringements of fundamental human rights and freedoms. For the Ombudsperson, this information is vital and serves as a source for investigation in cases where systematic violations of human rights are identified. Therefore, media engagement in presenting and reporting cases involving possible human rights violations should be encouraged, as their work draws attention from authorities and institutions to issues that are essential to the lives of citizens.

During this year, the Ombudsperson Institution redesigned its website, offering a more visually appealing and user-friendly layout. The new design allows citizens to easily submit complaints and includes a new

feature that allows complainants to track the status of their cases. The website also serves as a platform for distributing news and information with over 120 articles posted in 2024. In addition, social media platforms (such as Facebook, Instagram, and X) have been used to keep citizens informed about the work and activities of the OI and the Ombudsperson's involvement in particular. The media has covered roundtable discussions where the Ombudsperson interacted with citizens, representatives from civil society organizations, and local institutions.

Citizens have also used the social network Facebook, particularly Messenger, to communicate with the Ombudsperson. A significant number of citizens (102 individuals during 2024) have sought guidance and information on how to submit their complaints for review by the OI. In November 2024, the official OI Facebook page had reached 9 thousand followers.

In April 2024, the Ombudsperson raised concerns with news outlets regarding the publication of an article about the arrest of an individual for the criminal offense of "sexual relations within the family", which mentioned the ethnicity of the suspect. However, it was reported that the media obtained this information from the Kosovo Police. In light of this, the Ombudsperson reminded all parties of the stances expressed in the *Ex-officio* Report with Recommendations in 2019³⁴⁷. Among other things, the Kosovo Police were advised to protect personal data, including ethnicity, in media announcements and other public communications. It was recommended to only publish the initials of the names and surnames of individuals involved in cases where there are suspicions of criminal offenses. The Ombudsperson urged the Kosovo Police and portals in Kosovo to exercise caution when reporting such cases, avoiding the disclosure of personal characteristics, especially the ethnicity of individuals suspected of criminal offenses.

The Public Communication Office also

processes requests for access to public documents. In 2024, the OI received 13 requests from complainants, citizens, media, and non-governmental organizations seeking access to public documents, statistics, decisions, and other information. Out of the total number of requests, full access was granted to 12 requests, while 1 request was denied. All requests were submitted via email and responses were also provided via email.

347 <https://oik-rks.org/wp-content/uploads/2019/12/Ex-Officio-Raporti-me-rekomandime-468-2019-compressed.pdf>

The Strategy of the Ombudsperson Institution 2021-2025 and the Implementation Plan of the Ombudsperson Institution Strategy 2024-2025

The Ombudsperson has been exercising their mandate through the Ombudsperson Institution Strategy 2021-2025, which was approved on March 18, 2021. The purpose of this strategy is to contribute to increasing the impact of the Ombudsperson's work in protecting and promoting human rights and fundamental freedoms, as well as in preventing rights violations by public institutions, including human rights education. The main objectives of the Ombudsperson Institution focus on enhancing institutional capacities such as: identifying and investigating *ex-officio* cases of systematic violations; increasing the number of individual cases handled and ensuring their effective investigation and review.

These goals are intended to be achieved through four strategic objectives:

- i. Protection and supervision of fundamental human rights and freedoms through the increased influence of the Ombudsperson Institution in fulfilling its mandate.
- ii. Promotion of fundamental human rights

and freedoms and the role of the OI

- iii. Promoting Sustainable Development Goals (SDG)
- iv. Further development of the institutional capacity and human resources of the OI

During the reporting year, the strategy was implemented through the Strategy Action Plan 2024-2025, within which four (4) Strategic Objectives are pursued:

- i. Protection and supervision of fundamental human rights and freedoms
- ii. Promotion of fundamental human rights and freedoms and the role of the OI
- iii. Correlation between the 2030 Agenda and the Sustainable Development Goals (SDGs) with human rights
- iv. Further development of the institutional capacity and human resources of the OI

The OI Strategy 2021-2025 (revised in 2024) outlines the main pillars for implementing the institution's policies. Together with the Action Plan, it serves to evaluate the performance of specific segments of the organization and the work of the OI. In the reporting year, the Ombudsperson issued Decision No. 172/2024, establishing the Working Group for monitoring, oversight, and reporting on the implementation of the Strategy and Action Plan. This group is dedicated to ensuring supervision and analysis of the implementation of the strategy and action plan for the year 2024, through detailed reports submitted every six months, respectively for the period Q1/Q2/Q3/Q4.

From a general perspective, the working group has concluded that the strategy and action plan have been successfully implemented and aligned with the defined strategic objectives and goals. This has led to a consistent achievement of the outlined goals, demonstrating that the OI has actively played a role in safeguarding fundamental human rights and freedoms.

At the level of protecting and monitoring fundamental rights and freedoms, the

Ombudsperson has successfully increased its impact by handling systematic cases and intensifying its role in preventing violations by public institutions. The working group has observed a rise in the number of *ex-officio* cases being handled and investigated by the relevant institutions, which is essential for protecting individuals' rights.

In the ongoing efforts to promote rights and freedoms, awareness and education on human rights have been increased. OI has organized various activities to promote rights, including roundtable discussions, information sessions, lectures, presence on media and social networks, and collaboration with other civil society organizations. These efforts have contributed to promoting and enhancing understanding of human rights, particularly regarding the rights of non-majority communities in the country.

When it comes to aligning with the 2030 Agenda and the Sustainable Development Goals (SDGs), efforts have been made to incorporate these objectives into the daily activities of the Ombudsperson Institution. This is achieved by connecting them with the nature of complaints received at the OI, and utilizing the database system. There is a commitment to not only focus on protecting rights but also on aligning with global priorities that promote the sustainable development of society and ensure equality for all individuals.

In terms of institutional capacities and human resources, it has been determined that significant efforts have been made to develop and enhance the internal structures of the OI. The development of professional capacities and staff training has played a key role in improving work efficiency and fulfilling the OI's mandate.

In conclusion, reports and analyses have indicated that overall, substantial progress has been achieved in implementing the OI Strategy and Action Plan 2024-2025, with the organization nearly meeting the established strategic objectives and goals. This suggests that, while some challenges may still need to be addressed, the OI is making strides in the right direction to enhance its impact and

efficiency in safeguarding human rights.

Ol Budget

OI is an independent institution funded by the budget of the Republic of Kosovo. It submits its budget request for the upcoming calendar year and the following three-year period to the Assembly of the Republic of Kosovo. This request is based on priorities and work needs in accordance with its constitutional and legal competencies and responsibilities for carrying out its main mandate: overseeing, protecting, and promoting human rights and freedoms.

According to the Law on the Ombudsperson, the OI “prepares its annual budget proposal and submits it for approval to the Assembly of the Republic of Kosovo”.³⁴⁸ According to this legal provision, the OI may be allocated the necessary additional budget for cases of increased obligations and competencies under this law and other laws, as well as appropriate additional relevant financial and human resources.³⁴⁹

Funding of the OI from the Budget of the Republic of Kosovo

Based on the legal procedures for preparing and submitting the regular budget request, the Ombudsperson Institution has submitted its budget request for the year 2024 in June 2023 to the Assembly of the Republic of Kosovo and the Ministry of Finance, Labour and Transfers (MFLT) within to the legal deadline.

The budget request for 2024 by the Ombudsperson has been prepared based on the planned needs and work activities of the OI for the calendar year 2024, in line with the legal mandate and development strategy of the OI.

The OI budget for 2024, as outlined in the Budget Law, has been allocated in the amount of €1,300,017.99, intended for the

following economic budget categories:

- a) Salaries and allowances in the amount of €982,520.99;
- b) Goods and Services in the amount of €310,497.00;
- c) Municipal expenses (utilities) in the amount of €7,000.00.

The overview of the state and flow of OI budget expenditures for 2024 will be presented based on the OI request and the budget allocated according to the budget law for 2024. It will include expenditures at the end of the fiscal year, as well as any budget savings declared by OI and other budget cuts by the Government of the Republic of Kosovo. The information will be presented in tabular form and organized by budget economic categories.

In addition, OI is required to present a separate and detailed financial report for the 2024 budget year to the Assembly of the Republic of Kosovo. This report must follow the annual regular reporting guidelines outlined in the unified form for financial reporting by independent institutions, as requested by the Budget and Finance Committee of the Assembly of the Republic of Kosovo.³⁵⁰

More specifically, the table below will outline the OI budget for 2024. It will include the initial budget request, the budget allocated by the Annual Budget Law for 2024, the Declaration of budget savings by the OI, and the reduction of the OI budget at the end of the fiscal year by Government Decision No. 03/239 dated 24.12.2024.

³⁴⁸ Law No. 05/L-019 on the Ombudsperson, Article 35, paragraph 3.

³⁴⁹ Ibid.

³⁵⁰ The detailed financial report for the OI budget will be sent to the Assembly of the Republic of Kosovo, according to the unique form for financial reporting.

Table 1: OI budget for 2024, according to the following data:

Economic Category	OI budget request for 2024	Budget allocated with the Budget Law for 2024	Declaration of savings from IAP 2024	Reductions by Government Decision, No. 03/239 dated 24.12.2024	Final Budget 2024
Salary and allowances	1.073.964.00	982.520.99	(50.000.00)	(61.172.49)	921.348.50
Goods and services	279.797.00	310.497.00	(35.000.00)	0.00	310.497.00
Utilities	7.000.00	7.000.00	(2.700.00)	0.00	7.000.00
Capital expenditures	63.000.00	00	00	0.00	0.00
Total budget	1.423.761.00	1.300.017.99	87.700.00	61.172.49	1.238.845.50

The budget planning and expenditure for 2024 were carried out in accordance with the planned

requirements and designated goals to meet the needs and operational activities of the OI. This was done to ensure the execution of the mandate, smooth running of the work, and adherence to the OI work plan.

Regarding the non-spending of the 2024 budget, in relation to budget planning, budget allocation, and the final budget at the end of the fiscal year, international donations have also had an impact. These donations have allowed the OI to meet its needs and various activities of high interest in carrying out its mandate and the work plan for 2024. Additionally, the OI has implemented internal monitoring and control measures to ensure the budget is used in the most economical and effective manner.

For the 2024 fiscal year, the OI reported a total of €87,700.00 in budget savings in accordance with legal procedures and a request made from the MFLT.

However, the Ministry of Finance, Labour and Transfers only withdrew €61,172.49 from the Salaries and Allowances category with Government Decision No. 03/239 dated 24.12.2024, but not the total amount declared for budget savings, nor for the reported savings by the OI and for the category of

Goods, services and utility expenditures.

Final budget and expenditure realization for 2024

The OI budget for the fiscal year 2024 has been realized at €1,169,502, representing 94.40% of the total budget as per the final budget situation at the end of the fiscal year.

The table below shows the final budget status for 2024 in relation to budget expenditures. It is based on budgetary data of economic categories expressed as percentages of the total budget realized, organized according to budgetary economic categories.

Table 2: Final budget and budget expenditures realization for 2024

No.	Economic categories	Final budget for 2024	Budget spent 2024	Available (unused) funds	Realization in %
1.	Salary and allowances	921.348.50	921.348.50	0.00	100.00%
2.	Goods and services	310.497.00	244.484.00	66.013.00	78.74%
3.	Utilities	7.000.00	3.669.61	3.330.39	52.42%
4.	Capital expenditures	0.0	0.00	0.00	0.00
Total		1.238.845.50	1.169.502.11	69.343.39	94.40%

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