



# FROM PAPER TO PRACTICE

KOSOVO MUST KEEP ITS COMMITMENTS TO DOMESTIC VIOLENCE SURVIVORS

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**Cover photo:** Protesters marching against systematic violence against women to mark International Women's Day in Pristina, Kosovo, 8 March 2023

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# CONTENTS

<b>EXECUTIVE SUMMARY</b>	<b>5</b>
<b>METHODOLOGY</b>	<b>10</b>
<b>1. DOMESTIC VIOLENCE IN KOSOVO: DEFINING THE PROBLEM</b>	<b>16</b>
1.1 DOMESTIC VIOLENCE AND ITS DISPROPORTINATE EFFECT ON INDIVIDUALS BELONGING TO MINORITY GROUPS	18
<b>2. LEGAL AND POLICY FRAMEWORKS AND RELEVANT INSTITUTIONS IN KOSOVO</b>	<b>21</b>
<b>3. CHALLENGES FACING SURVIVORS TRYING TO LEAVE ABUSIVE RELATIONSHIPS</b>	<b>28</b>
3.1 FAILURE TO PROVIDE SURVIVORS WITH ADEQUATE ACCESS TO INFORMATION	28
3.1.1 LACK OF A SPECIALIZED HELPLINE	28
3.1.2 LACK OF INFORMATION ABOUT SUPPORT SERVICES	30
<b>4. POLICE FAILING VICTIMS OF DOMESTIC VIOLENCE</b>	<b>32</b>
4.1 SURVIVORS FACING DISBELIEF AND PREJUDICE BY THE POLICE	32
4.2 POLICE OFFICERS DIMINISH SURVIVORS' EXPERIENCES AND TESTIMONIES OF VIOLENCE	33
4.3 INSTITUTIONAL NEGLECT OF LGBTI SURVIVORS	36
<b>5. LACK OF MONITORING AND ENFORCMENT OF PROTECTION ORDERS</b>	<b>39</b>
<b>6. UNDER-RESOURCED SHELTERS UNABLE TO MEET SURVIVORS' NEEDS</b>	<b>42</b>
6.1 CHALLENGES IN ACCESSING SHELTERS	42
6.2 CUT OFF FROM THE WORLD: SHELTER RULES CAUSING STRONG SENSE OF ISOLATION	43
6.3 PERSISTENT GAPS IN FINANCING OF SHELTERS	44
6.4 LACK OF SHELTERS FOR LGBTI SURVIVORS OF DOMESTIC VIOLENCE	45
<b>7. LACK OF SUPPORT FROM CENTERS FOR SOCIAL WORK</b>	<b>47</b>
<b>8. VICIOUS CIRCLE: LACK OF LONG-TERM SUPPORT PREVENTS SURVIVORS BUILDING NEW LIVES</b>	<b>49</b>
<b>9. COURT DECISIONS ON ALIMONY DELAYED</b>	<b>53</b>

<b>10. SURVIVORS COMPELLED TO NAVIGATE A COMPLEX JUSTICE SYSTEM ALONE</b>	<b>54</b>
10.1 LEGAL SUPPORT SYSTEM IS FAILING SURVIVORS	54
10.1.1 VICTIM ADVOCATES - UNDERSTAFFED, OVERWORKED AND ABSENT	54
10.1.2 VICTIMS ADVOCACY AND ASSISTANCE OFFICE FAILING SURVIVORS	55
10.2 CRIMINAL JUSTICE RESPONSE FAILING SURVIVORS	57
10.2.1 SENTENCES NOT COMMENSURATE WITH THE GRAVITY OF THE OFFENCE	57
10.2.2 INADEQUATE CONSIDERATION OF MITIGATING CIRCUMSTANCES	59
10.3 SOME SURVIVORS CONSIDERED PERPETRATORS OF INTIMATE PARTNER VIOLENCE	61
10.4 COURT JUDGMENTS REVEAL VICTIMS' NAMES IN VIOLATION OF THEIR RIGHT TO PRIVACY	63
10.5 PROPOSED CHANGES TO THE CRIMINAL CODE AND CRIMINAL PROCEDURE CODE CONTRARY TO INTERNATIONAL HUMAN RIGHTS LAW	63
10.6 REPARATION FOR SURVIVORS OF DOMESTIC VIOLENCE ALMOST NON-EXISTENT	64
10.6.1 NO COMPENSATION FOR SURVIVORS OF DOMESTIC VIOLENCE FROM CRIMINAL COURTS	64
10.6.2 DIFFICULTIES IN RECEIVING REPARATIONS FROM THE VICTIM COMPENSATION FUND	65
<b>11. PREVENTION</b>	<b>68</b>
<b>12. IN THEIR OWN WORDS</b>	<b>70</b>
<b>13. RECOMMENDATIONS</b>	<b>72</b>

# EXECUTIVE SUMMARY

**“A single woman in Kosovo doesn’t live. She survives... If you don’t have strong family support and other support structure around you, you are an easy target in this society. What we have here is an institutional failure to protect women.”**

“Diana”, survivor of domestic violence from Kosovo

Survivors of domestic violence in Kosovo, the majority of whom are women and girls, face uncertainty and lack of support when trying to leave abusive situations. Survivors told Amnesty International that the state response was inadequate to support them live independently, forcing many back to abuse.

There is a monumental opportunity in Kosovo to change this. The current government has made addressing domestic violence and violence against women a clear national priority and has committed to taking a survivor-centred approach to doing so. In March 2022, the Government of Kosovo approved its National Strategy for Protection against Domestic Violence and Violence against Women, aimed at strengthening the institutional response to domestic violence and ensuring a victim-centred approach to service provision for survivors. In March 2023, the Assembly also approved at first reading a new draft law on prevention of and protection from domestic violence, violence against women and gender-based violence. These steps build on efforts taken in November 2020 by the Kosovo assembly to amend the country’s Constitution to give direct effect to the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention).<sup>1</sup>

However, Amnesty International’s research finds that these efforts have not been sufficient. Despite its strong commitment, the state is failing to fully meet its human rights obligations to take all appropriate measures to address domestic violence and violence against women and girls. These require that Kosovo implement comprehensive prevention policies and ensure survivors receive sufficient and adequate protection and support to leave abusive situations, and access justice and reparation in accordance with their needs and priorities.

**Survivors who try to leave abusive situations face severe barriers.** These include lack of information on available assistance, mistreatment by police officers, overworked social workers and inadequate support services. They also face obstacles to obtaining protection and accessing justice and remedies, including longer-term support and economic opportunities for an independent life free from violence. The state response is further hampered by a lack of sufficient resources and institutional capacity for proper implementation.

**Furthermore, starting and maintaining an independent life free of violence is a hard task for many women survivors in Kosovo since most depend economically on their birth families, husbands or families-in-law.** According to official data, only 17% of women were formally employed compared to 50% of men in 2017,

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<sup>1</sup> Due to this lack of universal recognition, Kosovo has not signed or ratified key international and regional human rights treaties, but Kosovo’s Constitution provides for direct application of eight international and regional human rights instruments granting them prevalence over domestic law. In November 2020, the Kosovo Assembly amended its Constitution giving direct effect to the Istanbul Convention.

and in 2021 only 18% of property was owned by women compared to 79% by men. Additionally, women are often excluded from family inheritance or waive their right to inherit due to social pressure despite laws guaranteeing them equality with men in these matters. The property division between spouses in divorce proceedings also tends to disadvantage women.

**In particular, the research shows that the state response to domestic violence is not sufficiently survivor-centred:** Kosovo policies to respond to domestic violence have a strong focus on criminal justice, but they neglect survivors' needs for long-term support and capacity to live an independent life. State-sponsored information campaigns are focused almost exclusively on encouraging survivors to report cases to the police. However, once survivors leave the abusive situation, they receive only initial protection and short-term support and are then left alone to try and rebuild their lives with insufficient, if any, long-term help in accessing housing, professional qualifications or employment. Human rights law requires states to take all necessary measures to help victims access support and services to facilitate their recovery from violence, including financial assistance, housing, education, training and assistance in finding employment.

Kosovo's response to domestic violence, including state policies and other measures, have also been shaped without meaningful participation of or consultation with civil society, or survivors themselves. This has resulted in failure to adequately integrate survivors' perspectives, concerns and needs in the specific policies.

## METHODOLOGY

Survivors of domestic violence have a right to be involved in all decision-making that affects them. Following this principle, this research adopted a survivor-centred approach to ensure that the perspectives of survivors are fully reflected in the documentation, analysis, conclusions and recommendations.

The research was conducted between June 2022 and July 2023 and involved 77 interviews. This included 20 survivors of domestic violence, eight of whom were from ethnic, linguistic or religious minorities, as well as LGBTI survivors, in six towns in Kosovo. Survivors were interviewed about their own experiences, and also asked about their priorities for an improved state response. Amnesty International also interviewed 22 representatives of NGOs, 15 state officials, nine persons managing domestic violence shelters, six academics, two local activists, one journalist, one expert in forensic medicine and one attorney. Additionally, the research involved quantitative analysis of a representative sample of 197 court judgments on domestic violence cases to analyse court sentencing and restitution practices, survivors' presence in court proceedings and their legal representation, amongst others. It also included formal requests for information to relevant authorities and a review of available literature and media reports.

## STATE FAILURE TO ADEQUATELY SUPPORT SURVIVORS LEAVING ABUSIVE SITUATIONS

**Lack of information.** Survivors need to know what state support services and protection are available to them to make informed decisions about their options to leave abusive situations. Yet most survivors interviewed reported not having information about their rights or available services before reporting their cases to the authorities. The research found that the responsible authorities often fail to ensure that relevant information is available and easily accessible to those who need it; for example, there is no specialized helpline for survivors of violence.

**Police failing to protect survivors.** Most survivors testified that the police tended to belittle their experiences and only took them seriously when they had visible physical marks of violence. "Diana" from Pristina reported her husband after suffering repeated violence for many years. She told Amnesty International, that when she finally went to the police and told them she was in fear for her life, the police officials questioned her character and asked if she were having an affair. They only began believing her account when she showed them her injuries.

Many survivors, particularly survivors from marginalized groups, also recounted prejudice, disbelief and mistreatment from the police. "Pati", a trans woman was brought to a police station after her father physically assaulted her and called the police to tell them that he was planning to "kick his son out because he was gay". Even though she was assaulted, the police questioned her as if she was a suspect and demanded to know about her sexual orientation. Officers told her that if she did not admit to being gay, they would bring in forensic doctors to "verify her sexual orientation".

**Protection orders difficult to enforce.** Survivors were satisfied that protection orders were issued swiftly by the judiciary. However, survivors and other interviewees highlighted problems with the scope of protection orders, including that courts rarely order the alleged perpetrator to leave the shared residence, forcing the survivor – and in some cases her children – to leave the house. In addition, protection orders often fail to cover other measures such as ordering the perpetrator to pay alimony or pay the rent of the survivor or compensating the victim for leaving the home, as they have the scope to do under the law. Finally, there seems to be no effective monitoring and enforcement of protection orders, which may expose survivors to further violence and abuse.

**Insufficient and underfunded shelters.** Currently, there is only one licensed shelter in each of Kosovo's eight regions and nearly all of them are available only to survivors willing to report their case to the police. This requirement poses a huge barrier to those who may not be ready or may not want to report their abuser, leaving many survivors without support. The situation for LGBTI survivors is even more precarious as there is no specialized LGBTI shelter in Kosovo and they are compelled to seek protection and accommodation in Albania, which is not always available and accessible.

Some shelters also have rules limiting survivors contact with family and friends, as well as access to phone and internet resulting in survivors feeling isolated and disconnected from the outside world.

**Centres for Social Work frequently do not work in best interest of survivors.** Most survivors interviewed by Amnesty International reported negative experiences with case workers assigned to them. Survivors said they were often not empathetic or helpful and some said they were overly focused on reconciling them with their abusers. "Edona", for example, recalled how she telephoned social workers for help while her husband was beating her, only to be told to try and engage in dialogue with him.

**Failure to provide adequate and sufficient social support.** There is limited, if any, government support, including financial assistance or social housing, available to survivors of domestic violence upon leaving a shelter. There remains no central government policy to provide even temporary, one off, support to assist survivors' transition to independent living.

The lack of sufficient state support and social housing is one of the key reasons why survivors decide not to report violence or are compelled to stay with or go back to their abusers. In the absence of specialised assistance, some women survivors return to their birth families, however, when their families do not accept them, they have no alternative but to return to their abusers. People experiencing domestic violence on the grounds of their sexual orientation or gender identity in their families of birth may also be compelled to tolerate or return to abusive households.

Furthermore, the length of court proceedings for divorce, alimony and division of property, which may last for many years, and the failure of state mechanisms to enforce alimony decisions when perpetrators refuse to pay significantly contribute to the precarious situation of survivors who leave abusive relationships.

## **STATE FAILURE TO ADEQUATELY SUPPORT SURVIVORS TO ACCESS JUSTICE AND REPARATION**

**Lack of effective legal assistance.** Survivors told Amnesty International that they did not always receive the adequate assistance from victim advocates that they were legally entitled to and wanted. The Victim Advocates' Office is understaffed and overburdened. Victim advocates lack adequate office space, preventing them from speaking confidentially with victims. Such challenges often result in victim advocates being unable to effectively assist victims. For example, as this report's findings show it is common for victim advocates to be absent from police stations or court proceedings or be unprepared and sometimes act against survivors' interests.

**Inadequate penalties.** This research found that, despite steps to improve the criminal justice response to domestic violence, where perpetrators are criminally prosecuted and convicted, they receive sentences not commensurate with the gravity of the offence. Survivors consistently highlighted how this erodes their trust in the justice system and discourages reporting. Amnesty International's systematic review of court judgments against 218 defendants found that 74% received a suspended prison sentence, 45% received a fine and 20% received a suspended fine. Some defendants received a combination of sentences, such as a suspended prison sentence and a fine. It also revealed that national sentencing guidelines, providing crucial guidance for judiciary in adjudicating and sentencing perpetrators of domestic violence in a context of pervasive gender stereotypes, was frequently disregarded.

**Survivors charged as perpetrators.** Amnesty International's analysis of 197 domestic violence judgments, identified six cases of intimate partner violence where both the man and the woman were charged and found guilty of domestic violence-related criminal offences. An analysis of the factual circumstances in these decisions revealed that the first victim, which in all cases was a woman, might have responded to the violence from the man in self-defence. However, most of these decisions failed to examine this possibility, and charged and convicted her equally as a perpetrator of violence.

**Privacy violations.** The judiciary sometimes violated survivors' right to privacy by publishing non-anonymised judgments on their websites. The identities of victims or perpetrators were public in 13.2% of the court judgments reviewed by Amnesty International.

**Reparations.** Survivors of domestic violence in Kosovo face many barriers in accessing reparations for the harms suffered. For example, Amnesty International's review of 197 court decisions showed courts did not award any compensation in criminal proceedings to survivors despite being empowered under the law to do so. Only a small proportion of survivors (5.1%) even sought compensation in the criminal cases, reflecting the survivors' lack of knowledge and legal support to request compensation. Instead of considering the requests, the courts referred these survivors to civil litigation instead. Referring survivors to civil courts adds yet another, often lengthy, court process, which makes seeking justice and remedies even more laborious and expensive for victims.

## STATE FAILURE TO IMPLEMENT A COMPREHENSIVE APPROACH TO PREVENTION OF DOMESTIC VIOLENCE

Although the government has initiated public awareness-raising campaigns, there are no measures or policies in place to address structural factors contributing to gender-based violence.

School textbooks still propagate gender stereotypes through incorrect statements about men and women, sexuality and gender identity. Unfounded and scientifically inaccurate statements propagate harmful negative stereotypes about gender roles and transgender people and reinforce harmful ideas about the inferiority of women and transgender prejudice, which are root causes of violence against women and LGBTI individuals.

Higher levels of marginalisation, structural inequality, poverty, low levels of education and unemployment in Roma, Ashkali and Kosovo-Egyptian communities compared to the majority population are creating a situation in which survivors of domestic violence in these communities tend to not report violence, including domestic violence. Child, early and forced marriages and school dropouts are also more prevalent in Roma, Ashkali and Kosovo-Egyptian communities. Despite the urgency of the situation, another commitment that the government failed to implement in 2022 was organizing "an awareness-raising campaign for parents to prevent early marriages".

## RECOMMENDATIONS

Despite some government efforts to improve the state's response to domestic violence, it is predominantly focused on the criminal justice system and encouraging survivors to report the violence. Yet, at the same time, the system is failing the survivors in multiple ways due to key institutions being under-resourced, understaffed and lacking the professional capacity to handle such cases in a gender-sensitive way. Moreover, other crucial aspects of the response to domestic violence are overlooked and neglected. For example, policies fail to enable survivors to receive social protection and support, for as long as needed and access social and economic rights such as housing and employment to empower them to live independently and free of violence in the long term. Prevention is also overlooked and lacks a systematic approach addressing root causes behind gender-based violence.

Nevertheless, the stated government's commitment to addressing domestic violence suggests that real change is possible. The government must take further action to ensure their responses are comprehensive, and that they have been developed with meaningful participation of Kosovo's civil society and the survivors of domestic violence.

Amnesty International provides a full range of concrete recommendations to each government branch or responsible institution in the report itself (see Section 13. Recommendations). Below are the key recommendations to the Kosovo authorities:



- Ensure that state policies in response to domestic violence are sufficiently survivor-centred and reflect the full range of survivors' concerns and needs, with respect to survivors' rights, dignity and agency. To this end, survivors' meaningful participation should be ensured throughout the legal and policy development process.
- Ensure that domestic violence policies focus not only on the criminal justice response but adequately respond to survivors' other concerns and needs through provision of longer-term support which enables them to access social and economic rights such as housing and work to leave situations of violence permanently.
- Ensure sufficient resources and ongoing capacity building for the police, victim advocates, prosecutors, courts and centres for social work and the courts to deal with domestic violence cases sensitively, professionally, efficiently, without undue delays and with respect for the rights, dignity and agency of all survivors. Training should be developed in close consultation with survivors and civil society.
- Provide appropriate, systematic and mandatory training for professionals working with domestic violence survivors. Training should cover the prevention and detection of domestic violence; gender equality; intersectional discrimination; and harmful gender stereotyping, with a view to preventing secondary victimization and eradicating discriminatory practices and the application of gender stereotypes at all stages of the legal process.
- Ensure shelters are available across the country to provide immediate access to protection for survivors of domestic violence, including temporary accommodation and other services, and that they are adequately and consistently funded and resourced. Ensure shelter rules and regulations respect survivors' rights and do not lead to secondary victimization. Ensure construction and resourcing of a specialized shelter for LGBTI survivors.
- Promote changes in the social and cultural patterns of behaviour of people of all genders with a view to eradicating harmful gender stereotypes and discrimination on the grounds of gender, gender identity, sexual orientation and ethnicity, among other factors. This should be achieved by, among other things, providing comprehensive, age-appropriate, gender-sensitive, evidence-based and unbiased sexuality education to pupils and students of all genders, including education about consent, bodily autonomy and the right to bodily integrity.

# METHODOLOGY

The research underlying this report used an innovative mixed-methods approach to capture the experiences of survivors of domestic violence in Kosovo from multiple perspectives. It highlights how survivors experience the justice system and the support services that are meant to assist them to leave abusive situations, receive protection and justice and claim redress for the violence they have suffered. This report also assesses important gaps in the existing legal and policy frameworks where the Kosovo authorities have not met their obligations under international human rights law. Based on the findings, the report offers recommendations for change to the relevant authorities.

Amnesty International carried out this research between June 2022 and July 2023. It involved interviews with survivors who experienced domestic violence between 2017-2022, experts; desk research, including reviews of existing literature and media articles; formal requests to relevant officials for public information access; and quantitative analysis of a representative sample of court judgments (see Methodology, below). Amnesty International conducted 10 research visits to several towns in Kosovo, including Pristina, Gjakova, Prizren, Mitrovica, Novo Brdo and Zubin Potok and interviewed 77 people, including 20 survivors of domestic violence, 22 representatives of non-governmental organizations, 15 state officials, nine persons managing domestic violence shelters, six academics, two local activists, one journalist, one expert in forensic medicine and one attorney.

Amnesty International was keen to employ research methods that would make the experience of participating in the research an empowering and positive one for survivors themselves, as well as build on survivors' knowledge about how the state response to domestic violence could be strengthened. As such, this report explores and reflects the perspectives of survivors and their priorities in the documentation, analysis and conclusions. Amnesty International's research team also ensured that recommendations resulting from this research were consulted with the survivors to ensure that they were pertinent to their concerns.

Amnesty International approached shelter personnel and local non-governmental organization (NGO) staff to identify and interview 20 survivors using a snowball sampling approach.<sup>2</sup> During these in-depth interviews, survivors were asked to share their personal experiences of interactions both with state institutions and with shelters run by NGOs, regarding their expectations, concerns and priorities. In addition, interviewees were invited to offer recommendations for changes to improve the current system and better protect the human rights of survivors.

While conducting the interviews, researchers held space for survivors to speak in a way that would be most comfortable to them and ensure their privacy. All but one of the survivors interviewed were adults. One interview was conducted with a 14-year-old girl who was staying in a shelter and requested to participate. As such this interview was conducted in a way that took account of her age and evolving capacity to provide consent, the researcher ensured additional time and the wording of some questions was adjusted. All interviewees were informed about the nature and purpose of the research as well as how the information provided would be used. Consent was obtained from each interviewee prior to the start of interview and confirmed again at the end of the interview. No incentives were provided to interviewees in exchange for their accounts.

Throughout this report, survivors' real names, and in some instances other identifying details such as family status and placenames, were excluded to protect survivors' privacy, confidentiality and safety in accordance

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<sup>2</sup>In snowball sampling, each interviewee is asked to suggest others to be interviewed. Given the difficulties of assessing a sampling frame for the thousands of people who may be affected by domestic violence in Kosovo, snowball sampling was deemed to be the most feasible research method.

with their wishes. In publicised cases of femicide, this report uses the real names of victims and perpetrators.

Amnesty International took an intersectional approach to identifying how laws, policies and their implementation affect domestic violence survivors' access to protection and support differently depending on aspects of their identity, such as survivors from ethnic, linguistic or religious minorities, and lesbian, gay, bisexual, transgender and intersex (LGBTI) survivors of violence. Six out of the 20 survivors interviewed belonged to ethnic minorities, including two Kosovo-Egyptians, two Kosovo-Ashkalis, one Roma and one Kosovo Serb, the rest were Kosovo-Albanian.<sup>3</sup> One survivor was a gay man and two were transgender women. Amnesty International also interviewed seven people working with Kosovo-Serb survivors, including two social workers, two shelter directors, and two representatives of women's rights organizations. Further, Amnesty International spoke to three civil society organisation representatives and two local activists working with Roma, Ashkali and Kosovo-Egyptian people and six representatives of three LGBTI organizations providing support to LGBTI survivors of domestic violence. Researchers sought information about the experiences of LGBTI people and throughout the report, wherever relevant information to the experience of LGBTI victims was found it has been presented. Amnesty International recognises the limitations of the scope of this research project. The area of LGBTI rights protection in the context of gender-based violence and more widely could benefit from further research and analysis as it is a generally under-investigated human rights concern in Kosovo.

Amnesty International conducted 15 interviews with state officials including the (now former) Deputy Minister of Justice and National Coordinator for Prevention and Protection from Domestic Violence, the Vice-Chief Prosecutor of Kosovo, the Head of the Unit for Protection from Domestic Violence with the Kosovo Police, the (now former) Director of the Victim Advocacy and Assistance Office, a victim advocate, one judge from the Basic Court of Pristina, three social workers, one representative of the Social Service Division in the Department of Social and Family Policies within the Ministry of Labour and Social Welfare, three Social Welfare Department representatives of the Municipality of Pristina, the Deputy-Mayor of Mitrovica, and the Ombudsperson of Kosovo.

The majority of interviews were conducted in Albanian, while about a third were conducted in English and one-tenth in Serbian. Survivors were interviewed in either Albanian or Serbian. Out of all 77 people interviewed, 60 were interviewed in person and 17 via video or telephone calls.

Amnesty International also conducted extensive desk research for this report. The literature review covered the legal and policy framework in Kosovo, existing domestic violence research, findings from partner organizations, media outputs, academic articles and official statistics. Research staff reviewed and analysed the case files of seven of the survivors who were interviewed, including indictments, court verdicts, protection orders, police statements, and other materials. This was done with the consent of the individuals involved.

To corroborate the findings from interviews and desk research, and to gain systematic insights into how Kosovo's criminal justice system engages victims while handling domestic violence cases Amnesty International analysed a representative sample of first instance court judgments on domestic violence criminal proceedings that were announced on or after 1 January 2018 and published by 12 December 2022, to cover a period of five years. To identify the research population, Amnesty International searched the online court databases in Kosovo to identify all domestic violence judgments available in the public domain for this time period. This search identified 1,637 verdicts on domestic violence that were handled by the Kosovo Department for General Matters, Criminal Division. A systematic random sample was drawn to represent the population of legal verdicts by municipality and year. A researcher read each judgment in the sample and systematically extracted information on survivors, defendants and criminal proceedings. Manual processing of sampled judgments resulted in 197 cases with guilty verdicts, covering a total of 218 defendants and 255 survivors. Empirical analysis was performed using the R programming language for statistical computing. An appendix accompanying this report provides detailed information on each aspect of the quantitative research methodology (Section A), in-depth empirical analysis of the judgment data (Section B), and a codebook that describes the manual coding procedure employed (Section C). The data that Amnesty International extracted on judgments, defendants, and survivors is publicly available at [www.amnesty.org](http://www.amnesty.org).

Amnesty International shared the findings of this report with relevant authorities including the Ministry of Justice, Ministry of Internal Affairs, Ministry of Finance, Labour and Transfers, Assembly of Kosovo, Kosovo

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<sup>3</sup> According to the last census in 2011, 0.9% of the population were Ashkali, 0.7% were Kosovo-Egyptian and 0.5% were Roma, 1.5% were Serbs and 93% were Albanian. See: Kosovo Agency for Statistics, "Popullsia sipas gjinisë, etnicitetit dhe vendbanimit – 2011", April 2013, [ask.rks-gov.net/media/1613/popullsia-sipas-gjinis%C3%AB-etnicitetit-dhe-vendbanimit.pdf](http://ask.rks-gov.net/media/1613/popullsia-sipas-gjinis%C3%AB-etnicitetit-dhe-vendbanimit.pdf), p. 11.

Judicial Council, Office of the Chief State Prosecutor, Academy of Justice and Municipality of Pristina and sought their written response to specific allegations ahead of the publication of this report. The response from the Ministry of Justice from 22 August 2023 was reflected, where relevant, in the text of the report.

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# GLOSSARY

WORD	DESCRIPTION
<b>GENDER-BASED VIOLENCE</b>	Violence directed against a person because of their gender, sexual orientation, gender identity or gender expression, including their failure to conform to conventional gender norms. Gender-based violence against women is violence directed against a woman because she is a woman or violence that affects women disproportionately, and is rooted in gender discrimination and inequality, the abuse of power and harmful gender stereotypes and norms. Women and girls, LGBTI and gender diverse people are disproportionately affected by gender-based violence, most often perpetrated by men. Men and boys can also be subjected to such violence when being perceived to transgress dominant gender norms and social ideas of masculinity.
<b>DOMESTIC VIOLENCE</b>	Includes all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim. <sup>4</sup>
<b>FORCED MARRIAGE</b>	A marriage in which one or both parties have not personally expressed their full and free consent to the union. <sup>5</sup>
<b>ISTANBUL CONVENTION</b>	Council of Europe Convention on preventing and combating violence against women and domestic violence
<b>SURVIVORS/VICTIMS OF DOMESTIC VIOLENCE</b>	This report uses the terms ‘victim’ and ‘survivor’ of domestic violence interchangeably to refer to persons who have experienced domestic violence. The Government of Kosovo also uses the terms survivor and victim interchangeably in the National Strategy for Protection against Domestic Violence and Violence against Women (2022-2026) as well as the new draft Law on Prevention and Protection from Domestic Violence, Violence against Women and Gender-Based Violence, which is being considered by the Assembly of Kosovo. <sup>6</sup> While acknowledging that ‘victim’ is the appropriate legal term, Amnesty International recognizes that ‘survivor’ is often preferred by some survivors themselves as it reflects the strength and resilience of those who have experienced domestic violence. It is also the term often preferred by human

<sup>4</sup> Council of Europe, *Council of Europe Convention on preventing and combating violence against women and domestic violence* (Istanbul Convention), available at <http://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=210> (hereinafter Istanbul Convention), Article 3(b).

<sup>5</sup> OHCHR, “Child and forced marriage, including in humanitarian settings”, [ohchr.org/en/women/child-and-forced-marriage-including-humanitarian-settings](https://ohchr.org/en/women/child-and-forced-marriage-including-humanitarian-settings) (last accessed on 23 July 2023).

<sup>6</sup> Government of the Republic of Kosovo, National Strategy on Protection against Domestic Violence and Violence against Women 2022-2026, January 2022, [kryeministri.rks-gov.net/en/blog/national-strategy-on-protection-against-domestic-violence-and-violence-against-women-2022-2026-14-03-2022-2/](https://kryeministri.rks-gov.net/en/blog/national-strategy-on-protection-against-domestic-violence-and-violence-against-women-2022-2026-14-03-2022-2/); Draft-Law on Prevention and Protection from Domestic Violence, Violence against Women and Gender-based Violence, [kuvendikosoves.org/Uploads/Data/Documents/185PLperparandalimindhembrojtjenngadhunanefamilje\\_Srwcnty5zr.pdf](https://kuvendikosoves.org/Uploads/Data/Documents/185PLperparandalimindhembrojtjenngadhunanefamilje_Srwcnty5zr.pdf), Article 3(19).

WORD	DESCRIPTION
	rights activists and civil society representatives in Kosovo interviewed for this report.

# ABBREVIATIONS

ABBREVIATION	DESCRIPTION
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEL	Centre for Equality and Liberty
COE	Council of Europe
CRC	Convention on the Rights of the Child
CSW	Centres for Social Work
ECHR	European Convention on Human Rights
ECTHR	European Court of Human Rights
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
FCPNM	Framework Convention for the Protection of National Minorities
LGBTI	Lesbian, gay, bisexual, transgender and intersex
NGO	Non-governmental organization
OHCHR	UN Office of the High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
UDHR	Universal Declaration of Human Rights
WHO	World Health Organization

# 1. DOMESTIC VIOLENCE IN KOSOVO: DEFINING THE PROBLEM

Domestic violence is a human rights violation. Domestic violence encompasses “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.”<sup>7</sup> It can lead to “severe physical and mental suffering, injuries, and also death”.<sup>8</sup> Although domestic violence may affect anyone, women, girls and LGBTI people are impacted disproportionately.<sup>9</sup> The World Health Organization (WHO) estimates that one in three women worldwide have experienced physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime.<sup>10</sup> Official data from the Kosovo Police states that the vast majority of cases of domestic violence in the country are reported by women and girls. In 2022, out of 2,764 registered cases with 2,817 victims, 81% (2,294) were female.<sup>11</sup> In 197 criminal judgments of domestic violence related offences reviewed by Amnesty International for this report, out of 255 survivors, 72% were female, rising to 92.7% of survivors in cases related to inter-partner violence,<sup>12</sup> while across all 230 perpetrators, over 90% were male.<sup>13</sup>

The current Government of Kosovo, which took office in 2021, recognized domestic violence as one of the most serious problems facing Kosovar society. It made addressing domestic violence and violence against women a priority in its four-year plan, and subsequently adopted a National Strategy for Protection against Domestic Violence and Violence against Women (2022-2026).<sup>14</sup> Since 2019, domestic violence has been a distinct criminal offence in Kosovo and is punishable by a fine ranging from 100 euros to a maximum of 25,000 euros<sup>15</sup> and up to three years’ imprisonment.<sup>16</sup>

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<sup>7</sup> Istanbul Convention (previously cited), Article 3(b).

<sup>8</sup> CoE, “Domestic violence or violence in intimate relationships”, last accessed on 17 July 2023 [coe.int/en/web/gender-matters/domestic-violence-or-violence-in-intimate-relationships](https://coe.int/en/web/gender-matters/domestic-violence-or-violence-in-intimate-relationships)

<sup>9</sup> World Bank Group, “Life on the Margins: Survey Results of the Experiences of LGBTI People in South-eastern Europe”, 2018, [openknowledge.worldbank.org/server/api/core/bitstreams/df4755b4-021c-5ef6-b0de-2ff97debd868/content](https://openknowledge.worldbank.org/server/api/core/bitstreams/df4755b4-021c-5ef6-b0de-2ff97debd868/content)

<sup>10</sup> WHO, “Violence against women, Key facts”, 9 March 2021, [who.int/news-room/fact-sheets/detail/violence-against-women](https://who.int/news-room/fact-sheets/detail/violence-against-women)

<sup>11</sup> Amnesty International, Kosovo Police response to an Amnesty International Request for information on statistics of domestic violence in Kosovo, 31 January 2023.

<sup>12</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.1 Victims, Figure 2: Comparative distribution of victims’ gender, by type of relationship.

<sup>13</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.2 Defendants, Figure 4: Comparative distribution of defendant gender, by type of relationship.

<sup>14</sup> Government of the Republic of Kosovo, National Strategy on Protection against Domestic Violence and Violence against Women 2022-2026 (previously cited), pp. 5-6.

<sup>15</sup> Criminal Code of Kosovo 06/L-074 of the Republic of Kosovo, 2019, available at , Article 43.

<sup>16</sup> Criminal Code of Kosovo, Article 248.



There has been a steady increase in victims reporting domestic violence to the authorities since 2018. In 2019, the Kosovo police registered 1,915 cases, up from 1,533 in 2018.<sup>17</sup> The year 2022 marked the highest rate so far, with 2,764 reported cases.<sup>18</sup>

As alarming as they are, the figures are likely lower than the number of actual cases of domestic violence due to many survivors opting not to report abuse to the authorities. A 2019 survey by the Organization for Security and Cooperation in Europe (OSCE) found that 54% of 1,990 women aged 18-74 surveyed in Kosovo reported having experienced psychological, physical or sexual violence from their intimate partner after the age of 15.<sup>19</sup> Nearly two-thirds, or 64%, said they thought that violence by partners, acquaintances or strangers was very or fairly common. Additionally, 48% of the women surveyed believed that domestic violence was a private matter that should be resolved within the family. According to the OSCE survey, such beliefs “contribute to gender inequality and an environment where violence against women is tolerated”.<sup>20</sup> The findings suggest that the majority of victims do not report violence to the relevant institutions (the police, health sector, social sector or judiciary) or make use of the specialized services provided by NGOs. Indeed, 18 out of 20 survivors interviewed by Amnesty International reported suffering psychological and physical violence for many years before finally going to the police; most seeking help only after fearing that their abuser might kill them. Representatives of shelters and civil society organizations who work with survivors of domestic violence, as well as the Vice-Chief State Prosecutor, confirmed to Amnesty International that survivors tend to request help after having endured prolonged violence, and that incidents remain significantly under-reported.<sup>21</sup>

Several factors perpetuate this under-reporting. A key barrier is that women’s access to social and economic rights in Kosovo is significantly undermined by high unemployment, structural gender inequalities and discriminatory practices in inheritance and division of property following divorce. In 2021, only 17% of women in Kosovo were formally employed, compared to 50% of men.<sup>22</sup> Despite legal safeguards guaranteeing women’s equal right to inherit property, women in Kosovo are often excluded from family inheritance from their birth family, or they waive their right to inherit due to social pressure.<sup>23</sup> This is particularly prevalent in rural areas.<sup>24</sup>

In 2021, women owned just 18% of property in Kosovo.<sup>25</sup> Women also remain under-represented in political and public life despite a steady increase in women’s participation<sup>26</sup> and a legal requirement to take temporary special measures to ensure equal representation at all decision-making levels in political and public life.<sup>27</sup>

The above-mentioned socio-economic conditions and systemic discrimination entrench women’s economic dependence on the income from their birth family, husband and/or in-laws, and result in multiple barriers to reporting domestic violence or leaving abusive relationships.

Gender-based violence takes different forms and can include acts or omissions that are intended or likely to cause death, physical injury or sexual, psychological or economic and other harm to victims and survivors.<sup>28</sup> In extreme cases, domestic violence can end in gender-based killings or femicide.<sup>29</sup> In 2022, three women in Kosovo were victims of femicide – Lirije Qerimaj, Sadije Godeni and Hamide Magashi. During previous

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<sup>17</sup> Amnesty International, Kosovo Police response to an Amnesty International Request for information on statistics of domestic violence in Kosovo, October 2021 and October 2022.

<sup>18</sup> Amnesty International, Kosovo Police response to an Amnesty International Request for information on statistics of domestic violence in Kosovo, January, March and July 2023. During January-June 2023, the Police had recorded 1272 cases.

<sup>19</sup> OSCE, “Survey on violence against women – Survey on well-being and safety of women in Kosovo”, <https://www.osce.org/files/f/documents/d/c/439781.pdf>, (last accessed on 24 July 2023).

<sup>20</sup> OSCE, “Survey on violence against women – Survey on well-being and safety of women in Kosovo”, (previously cited), p. 10.

<sup>21</sup> Amnesty International, Interview with Erëblina Dinarama, Director of the shelter in Gjakova, Sevdije Morina, Vice-Chief-State Prosecutor of Kosovo, Luljeta Demolli director of the Kosovo Center for Gender Studies, May-September 2022.

<sup>22</sup> Kosovo Agency of Statistics, “Labor Force Survey TM3 2021”, 4 October 2021, <https://ask.rks-gov.net/media/7072/afp-tm3-2021.pdf>

<sup>23</sup> Agency for Gender Equality, Office of the Prime Minister, Kosovo Programme for Gender Equality 2020-2024, June 2020, [abgi.rks-gov.net/assets/cms/uploads/files/AGE%20Kosovo%20Program%20for%20Gender%20Equality%202020-2024.pdf](http://abgi.rks-gov.net/assets/cms/uploads/files/AGE%20Kosovo%20Program%20for%20Gender%20Equality%202020-2024.pdf), p. 26

<sup>24</sup> European Union Rule of Law Mission in Kosovo (EULEX), “Women and the right to inherit real estate property in Kosovo”, 2016, [eulex-kosovo.eu/eul/repository/docs/Inheritance\\_1N.pdf](http://eulex-kosovo.eu/eul/repository/docs/Inheritance_1N.pdf), p. 20.

<sup>25</sup> Kosovo Cadastral Agency, *Annual Report 2021, 2022*, [akk.rks-gov.net/storage/app/media/raporte%20vjetore/RAPORTI%20VJETOR%202021.pdf](http://akk.rks-gov.net/storage/app/media/raporte%20vjetore/RAPORTI%20VJETOR%202021.pdf), p. 99. Men owned 79% of property, while 1.9% was owned by legal entities.

<sup>26</sup> European Commission, *Kosovo 2022 Report*, 12 October 2022, [neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Kosovo%20Report%202022.pdf](http://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Kosovo%20Report%202022.pdf), p. 36.

<sup>27</sup> Law No.05/L-020 on Gender Equality, June 2015, [gzk.rks-gov.net/ActDetail.aspx?ActID=10923&langid=2](http://gzk.rks-gov.net/ActDetail.aspx?ActID=10923&langid=2), Article 6(8).

<sup>28</sup> CEDAW Committee, General Recommendation No.35 on gender-based violence against women, updating General Recommendation No.19, UN Doc. CEDAW/C/CG/35, para. 14.

<sup>29</sup> CEDAW Committee, General Recommendation No.35 (previously cited), para. 34.

years, there were other highly publicized cases, including those of Sebahate Morina<sup>30</sup> and Diana Kastrati,<sup>31</sup> which show a recognisable pattern of persistent institutional negligence and failure to protect victims of domestic violence.

Lirije Qerimaj reported her husband for domestic violence on 1 January 2022 and asked for a protection order.<sup>32</sup> She told the police in Laushë that she had experienced physical and psychological violence from her husband since their marriage in 2001, but that she never previously reported him.<sup>33</sup> No protection was immediately issued. Following orders from the prosecutor, the police released Lirije Qerimaj's husband, Skender Qerimaj, following an interview. Five days later, he shot and killed Lirije Qerimaj.<sup>34</sup> A protection order was finally issued on the day of her murder.<sup>35</sup> The Kosovo Ombudsperson Institution conducted an official investigation, concluding that the state prosecution and the police failed to protect the right to life of Lirije Qerimaj by failing to conduct an adequate risk assessment and ensure protection measures for the victim.<sup>36</sup> The Kosovo Prosecutorial Council found the prosecutor in charge to be guilty of misconduct and gave her a public written reprimand.<sup>37</sup> The Basic Court of Mitrovica sentenced Skender Qerimaj to 24 years' imprisonment for his wife's murder<sup>38</sup>.

## 1.1 DOMESTIC VIOLENCE AND ITS DISPROPORTINATE EFFECT ON INDIVIDUALS BELONGING TO MINORITY GROUPS

Women from ethnic minority communities, including Roma, Ashkali and Kosovo-Egyptian communities,<sup>39</sup> face multiple and intersecting forms of discrimination which create additional and unique barriers to reporting. Victims from these communities tend not to report violence, including domestic violence, to the police, because of the general lack of trust in the state institutions in Kosovo, economic dependence on their abusers and prejudice from the community against women who report their husbands.<sup>40</sup> According to the Kosova Network of Roma, Ashkali and Egyptian Women and local activists, in comparison to the majority population, domestic violence and child, early<sup>41</sup> and forced marriages are more prevalent in Roma, Ashkali and Kosovo-Egyptian communities in a context of economic deprivation and structural marginalisation.<sup>42</sup>

<sup>30</sup> Kosova Women's Network and Kosovo Law Institute, "Shteti me mos veprim, priron nga jeta Sebahate Sopin", March 2021, [kls.org/shteti-me-mos-veprim-priron-nga-jeta-sebahate-sopin/?fbclid=IwAR2QJoi4WmZ8c2Y\\_dvmXc8L2nmCsdajFCGYhIXVqsh4b5jBkZYF64CXV7M](https://kls.org/shteti-me-mos-veprim-priron-nga-jeta-sebahate-sopin/?fbclid=IwAR2QJoi4WmZ8c2Y_dvmXc8L2nmCsdajFCGYhIXVqsh4b5jBkZYF64CXV7M); Ombudsperson Institution, *Ex Officio Report No. 1502021*, 27 April 2021, [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/](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/)

<sup>31</sup> Constitutional Court of Kosovo, *Judgment in case No. 41/12 for applicants Gëzim and Makfire Kastrati against Municipal Court in Prishtina and Kosovo Judicial Council*, 26 February 2013, [gjk-ks.org/wp-content/uploads/vendimet/gjkk\\_ki\\_41\\_12\\_ang.pdf](https://gjk-ks.org/wp-content/uploads/vendimet/gjkk_ki_41_12_ang.pdf); Prishtina Insight, "Court awards family of Diana Kastrati €95,000 in compensation", 11 September 2019, [prishtinainsight.com/court-awards-family-of-diana-kastrati-95000-euros-in-compensation/](https://prishtinainsight.com/court-awards-family-of-diana-kastrati-95000-euros-in-compensation/); Kosova Women's Network, "Raport Nga Ligjet në Vepra – Monitorimi i reagimit institucional ndaj dhunës me bazë gjinore në Kosovë", 2021.

<sup>32</sup> Ombudsperson Institution, *Ex-Officio Report No. 13/2022* (with regard to the state's positive obligations to protect the right to life and to ensure protection from domestic violence), 21 July 2022, [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/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/), para. 4.

<sup>33</sup> Ombudsperson Institution, *Ex-Officio Report No. 13/2022* (previously cited), para. 12. See also: Kallxo.com, "Tragjedia e Llaushës: Çka kishte thënë viktima pesë ditë para vrasjes në Polici?", 6 January 2022, [kallxo.com/lajm/tragjedia-e-llaushes-cka-kishte-thene-viktima-pese-dite-para-vrasjes-ne-polici/](https://kallxo.com/lajm/tragjedia-e-llaushes-cka-kishte-thene-viktima-pese-dite-para-vrasjes-ne-polici/)

<sup>34</sup> Balkan Insight, "Kosovo activists request maximum sentencing in latest femicide", 6 January 2022, [balkaninsight.com/2022/01/06/kosovo-activists-request-maximum-sentencing-in-latest-femicide/](https://balkaninsight.com/2022/01/06/kosovo-activists-request-maximum-sentencing-in-latest-femicide/); Prishtina Insight, "Police errors blamed for woman's murder by husband", 8 January 2022, [prishtinainsight.com/police-errors-blamed-for-womans-murder-by-husband/](https://prishtinainsight.com/police-errors-blamed-for-womans-murder-by-husband/); Kallxo.com, "Tragjedia e Llaushës: Çka kishte thënë viktima pesë ditë para vrasjes në Polici?" (previously cited).

<sup>35</sup> Kallxo.com, "Tragjedia e Llaushës: Çka kishte thënë viktima pesë ditë para vrasjes në Polici?" (previously cited).

<sup>36</sup> Ombudsperson Institution, *Ex-Officio Report No. 13/2022* (previously cited), paras 61-62.

<sup>37</sup> Kosovo Prosecutorial Council, *Decision KPK/Nr.602/2022*, 14 April 2022, [prokuroria-rks.org/assets/cms/uploads/files/Vendim%20nr.%20700%202022%2C%20Stojanka%20Kasalovic.pdf](https://prokuroria-rks.org/assets/cms/uploads/files/Vendim%20nr.%20700%202022%2C%20Stojanka%20Kasalovic.pdf)

<sup>38</sup> Kallxo.com, «24 vjetet burgim për burrin që vrau gruan e tij në Llaushë», 12 September 2022, [kallxo.com/lajm/24-vjet-burg-per-burrin-qe-vrau-gruan-e-tij-ne-llaushes/](https://kallxo.com/lajm/24-vjet-burg-per-burrin-qe-vrau-gruan-e-tij-ne-llaushes/)

<sup>39</sup> According to the Kosovo Agency for Statistics last census in 2011, 0.9% were Ashkali, 0.7% were Kosovo-Egyptian, 0.5% were Roma. See: Kosovo Agency for Statistics, *Popullsia sipas gjinisë, etnicitetit dhe vendbanimit - 2011*, April 2013 <https://ask.rks.gov.net/media/1613/popullsia-sipas-gjinis%C3%AB-etnicitetit-dhe-vendbanimit.pdf>, page 11.

<sup>40</sup> European Commission, *Kosovo 2022 Report*, (previously cited), p. 41. Amnesty International, Online interview with Shpresa Agushi, Director of the Kosova Network for Roma, Ashkali and Egyptian Women, September 2022.

<sup>41</sup> Kosovo Agency for Statistics, "MICS me komunitetet Rom, Ashkali dhe Egjiptian në Republikën e Kosovës 2019-2020", 2020, [ask.rks.gov.net/media/5735/6-alb-mics6kos-statistical-snapshot-child-marriage-20200810\\_20201119.pdf](https://ask.rks.gov.net/media/5735/6-alb-mics6kos-statistical-snapshot-child-marriage-20200810_20201119.pdf) (last accessed on 24 July 2023).

<sup>42</sup> Amnesty International, Online Interview with Shpresa Agushi, September 2022; Interview with Vlora Gashi, Kosovo-Egyptian activist, October 2022; Interview with Qendresa Ademi, Ashkali activist and member of the local assembly in the Municipality of Fushë Kosova, October 2022. See also: European Commission, *Kosovo 2022 Report*, (previously cited), p. 41.

Women from these communities are also rarely heard in policy discussion due to their extreme under-representation in political parties and policy-making bodies.<sup>43</sup>

Women from the Serb ethnic minority, particularly in the north of Kosovo, also face unique barriers in reporting domestic violence and seeking help. Due to continued challenges with integration of institutions from the Serb-majority areas into the Kosovo's governance architecture<sup>44</sup> and the lack of institutional recognition and cooperation, including in judicial matters, between Kosovo and Serbia, ethnic Serb survivors of domestic violence face significant legal uncertainty and additional bureaucracy. NGOs working with ethnic Serb survivors reported cases where they were forced to initiate simultaneous legal proceedings in Kosovo and Serbia for divorce, alimony or child custody, often receiving contradictory decisions on the same issues.<sup>45</sup>

The situation deteriorated in November 2022 when ethnic Serb judges, prosecutors and police officers in the four northern Serb-majority municipalities and 10 members of parliament resigned from their official positions amid escalating political tensions.<sup>46</sup> The significantly reduced number of ethnic Serb personnel left a legal and administrative vacuum, causing a further decrease in reported cases of domestic violence and the ability of responsible institutions to address them.<sup>47</sup>

LGBTI people in Kosovo face systemic discrimination and a low level of social acceptance.<sup>48</sup> According to a public opinion poll of 805 adults conducted in 2022 by the Equal Rights Coalition, 60% of respondents thought that "being LGBT was a disease", 77% thought that same-sex marriage was unacceptable, and 8% said that if their child was gay, lesbian, bisexual, transgender or gender non-conforming, they would make them leave their family or house and/or physically punish them.<sup>49</sup> LGBTI people in Kosovo often experience domestic violence from their birth family because of their sexual orientation, gender identity or expression.<sup>50</sup> Yet, according to official data from the Kosovo Police, no cases of domestic violence against LGBTI people were registered in 2020,<sup>51</sup> despite an increase in the overall number of reported cases of domestic violence.<sup>52</sup> The Kosovo Police registered only three cases of domestic violence against LGBTI people in 2021 and two cases in 2022.<sup>53</sup>

Despite important progress in providing legal safeguards for LGBTI people,<sup>54</sup> in March 2022 the Kosovo Assembly failed to adopt the new Civil Code due to a provision that would have paved the way for legalization of same-sex unions.<sup>55</sup> Some members of parliament opposing the measure, including the Chairperson of the Committee on Human Rights, Gender Equality and Missing Persons, used homophobic and derogatory

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<sup>43</sup> European Commission, *Kosovo 2022 Report*, (previously cited), p. 40.

<sup>44</sup> In the absence of long-term normalization of the relationship between Kosovo and Serbia, even before Serb officials withdrew from all institutions in November 2022, municipal staff in Serb-majority areas had complicated reporting lines, with some reporting to Kosovo authorities, some to the authorities in Serbia and some working under both governments. These arrangements significantly complicated service provision and created a sense of legal and administrative uncertainty.

<sup>45</sup> Kossev, "Simic: Protection of women's rights and victims of violence in the north of Kosovo is now virtually non-existent", 9 March 2023, [kossev.info/simic-protection-of-womens-rights-and-victims-of-violence-in-the-north-of-kosovo-is-now-virtually-non-existent/](https://www.kossev.info/simic-protection-of-womens-rights-and-victims-of-violence-in-the-north-of-kosovo-is-now-virtually-non-existent/)

<sup>46</sup> Balkan Insight, "Serbs stage mass resignation from Kosovo state institutions", 5 November 2022, [balkaninsight.com/2022/11/05/serbs-stage-mass-resignation-from-kosovo-state-institutions/](https://www.balkaninsight.com/en/2022/11/05/serbs-stage-mass-resignation-from-kosovo-state-institutions/)

<sup>47</sup> Kossev, "Simic: Protection of women's rights and victims of violence in the north of Kosovo is now virtually non-existent" (previously cited).

<sup>48</sup> Ombudsperson Institution, *Annual Report 2020*, March 2021, [oik-rks.org/en/2021/04/14/annual-report-2020/](https://oik-rks.org/en/2021/04/14/annual-report-2020/), pp. 15 & 79; *Annual Report 2021*, March 2022, [oik-rks.org/en/2022/03/31/annual-report-2021/](https://oik-rks.org/en/2022/03/31/annual-report-2021/), p. 197; *Annual Report 2022*, March 2023, [oik-rks.org/en/2023/03/31/annual-report-2022/](https://oik-rks.org/en/2023/03/31/annual-report-2022/), pp. 157 & 205.

<sup>49</sup> IPSOS and Equal Rights Association, "Public opinion poll for understanding opinions and attitudes towards LGBTIQ+ people in the Western Balkans", 2022, [lgbti-era.org/wp-content/uploads/2023/06/Analytical-Report-2023-LGBTIQ-Public-Opinion-Poll-Western-Balkans-FINAL-compressed.pdf](https://lgbti-era.org/wp-content/uploads/2023/06/Analytical-Report-2023-LGBTIQ-Public-Opinion-Poll-Western-Balkans-FINAL-compressed.pdf), p. 33.

<sup>50</sup> Amnesty International, Interview with Blert Morina, executive director of the Center for Equality and Liberty, December 2022; Interview with LGBTI activist Lendi Mustafa, December 2022; Interview with Arbër Nuhui, executive director, and Rajmonda Sylbije, programme director of Center for Social Group Development, December 2022.

<sup>51</sup> Amnesty International, Response of the Kosovo Police to an official request for information, 21 March 2023.

<sup>52</sup> Amnesty International, Interview with Blert Morina, December 2022; Interview with Lendi Mustafa, December 2022.

<sup>53</sup> Amnesty International, Response of the Kosovo Police to an official request for information, 21 March 2023.

<sup>54</sup> The Law on Protection from Discrimination prohibits discrimination on basis of sexual orientation or gender identity in all areas of life and applies to all actions or inactions of all natural or legal persons and institutions in Kosovo. See: Constitution of Kosovo, Article 24; Law No.05/L-021 on Protection from Discrimination, Articles 1, 2 & 3. Also, crimes committed on grounds of a person's sexual orientation or gender identity carry heavier sentences. See Criminal Code No.06/L-074, Article 70(2.12). In two publicized cases, courts issued decisions to legally change the names and gender-markers of two transgender people. See: Court of Appeals of Kosovo, *Judgment AA.nr.244/2019*, 2 August 2019; Basic Court of Pristina, *Judgment A.nr.1822/2018*, 24 October 2019. The Kosovo Assembly is expected to discuss in June 2023 the adoption of a new Law on Civil Status, which in the current draft entails a procedure for changing the name and legal marker based on self-identification. See: Office of the Prime Minister, Legislative Programme for the year 2023, 25 January 2023, [kryeministri.rks-gov.net/wp-content/uploads/2023/02/Programi-Legjislativ-per-Vitin-2023-1.2.2023.pdf](https://www.kryeministri.rks-gov.net/wp-content/uploads/2023/02/Programi-Legjislativ-per-Vitin-2023-1.2.2023.pdf), p. 11; Office of Good Governance, Project-Law on Civil Status, 22 November 2022, [konsultimet.rks-gov.net/viewConsult.php?ConsultationID=41643](https://konsultimet.rks-gov.net/viewConsult.php?ConsultationID=41643), Articles 40-43.

<sup>55</sup> Amnesty International, *Amnesty International Report 2022/23 – The state of the world's human rights*, Kosovo 2022, [amnesty.org/en/location/europe-and-central-asia/kosovo/report-kosovo/](https://www.amnesty.org/en/location/europe-and-central-asia/kosovo/report-kosovo/); see also: Koha.net, "Dështon të miratohet Projekt Kodi Civil", 16 March 2022, [koha.net/arberi/316049/pdk-ja-se-voton-projekt-kodin-civil-pa-deklarimin-e-kurtit-aak-ja-dhe-minoritetet-kunder/](https://www.koha.net/arberi/316049/pdk-ja-se-voton-projekt-kodin-civil-pa-deklarimin-e-kurtit-aak-ja-dhe-minoritetet-kunder/)

language about LGBTI people,<sup>56</sup> which is threatening to exacerbate the pre-existing discrimination and prejudice towards LGBTIQ persons.<sup>57</sup> LGBTI organisations in Kosovo interviewed by Amnesty International shared with researchers how persistent discrimination in all areas of life causes many LGBTI people to distrust state institutions and leads to underreporting of cases of domestic violence.<sup>58</sup>

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<sup>56</sup> Amnesty International, *Amnesty International Report 2022/23 – The state of the world's human rights*, Kosovo 2022, (previously cited); see also: Kosovo 2.0, "We don't know what it's like to be free", 30 March 2022, [kosovotwopointzero.com/en/we-dont-know-what-its-like-to-be-free/](https://kosovotwopointzero.com/en/we-dont-know-what-its-like-to-be-free/)

<sup>57</sup> European Commission, *Kosovo 2022 Report*, (previously cited), pp. 38-39.

<sup>58</sup> Interview with Arbër Nuhiu, executive director, and Rajmonda Sylbije, programme director of Center for Social Group Development; Interview with Blert Morina, executive director of the Center for Equality and Liberty; Interview with LGBTI activist Lendi Mustafa, December 2022.

# 2. LEGAL AND POLICY FRAMEWORKS AND RELEVANT INSTITUTIONS IN KOSOVO

Kosovo declared independence from Serbia in 2008. This came after years of systematic human rights violations against the ethnic Albanian population by the former Federal Republic of Yugoslavia, which culminated in an armed conflict in 1999,<sup>59</sup> brought to an end by NATO intervention. At the time of writing, Kosovo is recognized as an independent state by 117 countries, and by 22 out of 27 European Union (EU) member states.<sup>60</sup> Serbia, however, continues to refuse to recognize Kosovo's independence,<sup>61</sup> complicating Kosovo's aspirations to become a member state of the United Nations (UN), the Council of Europe (CoE)<sup>62</sup> or the EU.<sup>63</sup>

Due to this lack of universal recognition, Kosovo has not signed or ratified key international and regional human rights treaties, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture (CAT), the European Convention on Human Rights (ECHR) or the CoE Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). Nevertheless, Kosovo's Constitution provides for direct application of eight international and regional human rights instruments – the UDHR, ECHR, ICCPR, the International Convention on Eliminating Racial Discrimination (CERD), CEDAW, Framework Convention for the Protection of National Minorities (FCNM), the International Convention on the Rights of the Child (CRC) and CAT – granting them prevalence over domestic law.<sup>64</sup> In November 2020, the Kosovo Assembly amended its Constitution giving direct effect

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<sup>59</sup> Amnesty International, *Amnesty International Annual Report 1999*, [amnesty.org/en/documents/pol10/0001/1999/en/](https://www.amnesty.org/en/documents/pol10/0001/1999/en/), pp. 34-35.

<sup>60</sup> Ministry of Foreign Affairs and Diaspora of the Republic of Kosovo, "List of recognitions", [mfa-ks.net/lista-e-njohjeve/](https://mfa-ks.net/lista-e-njohjeve/), (last accessed on 24 July 2023).

<sup>61</sup> Government of the Republic of Serbia, "Kosovo as UN member unacceptable for Serbia", 8 October 2022, [srbija.gov.rs/vest/en/195085/kosovo-as-un-member-unacceptable-for-serbia.php](https://srbija.gov.rs/vest/en/195085/kosovo-as-un-member-unacceptable-for-serbia.php)

<sup>62</sup> In 2022, Kosovo submitted its formal applications for membership of the CoE. See: Republic of Kosovo, Ministry of Foreign Affairs and Diaspora, "Statement of the Deputy Prime Minister and Minister of Foreign Affairs and Diaspora", 14 May 2022, [twitter.com/MFAKOSOVO/status/1524703643878014976?s=20&t=QOxldUn41UyskF46Saj4hQ](https://twitter.com/MFAKOSOVO/status/1524703643878014976?s=20&t=QOxldUn41UyskF46Saj4hQ). In April 2023, the Committee of Ministers of the CoE voted for moving Kosovo's membership application to the next stage to the Parliamentary Assembly of the CoE. Koha, "Pranohet aplikimi i Kosovës për anëtarësim në Këshillin e Evropës", 24 April 2023, [koha.net/arberi/374914/sot-vendoset-nese-do-te-pranohet-aplikimi-i-kosoves-per-anetaresim-ne-ke/](https://koha.net/arberi/374914/sot-vendoset-nese-do-te-pranohet-aplikimi-i-kosoves-per-anetaresim-ne-ke/)

<sup>63</sup> In 2022, Kosovo filed formal application for membership of the EU. See President of the Republic of Kosovo, "Fjalimi i Presidentes Osmani në ceremoninë e nënshkrimit të aplikimit të Kosovës për anëtarësim në Bashkimin Evropian", 14 December 2022, [president-ks.gov.net/sq/lajme/fjalimi-i-presidentes-osmani-ne-ceremonine-e-nenshkrimit-te-aplikimit-te-kosoves-per-anetaresim-ne-bashkimin-evropian](https://president-ks.gov.net/sq/lajme/fjalimi-i-presidentes-osmani-ne-ceremonine-e-nenshkrimit-te-aplikimit-te-kosoves-per-anetaresim-ne-bashkimin-evropian). Since 2015, the EU has recognized Kosovo as a potential candidate for accession to the EU and concluded with it a Stabilization and Association Agreement.

<sup>64</sup> Constitution of the Republic of Kosovo, Article 22.

to the Istanbul Convention.<sup>65</sup> Although Kosovo's citizens cannot petition the European Court of Human Rights (ECtHR), Article 53 of the Kosovo Constitution foresees that human rights and fundamental freedoms guaranteed by the Constitution of Kosovo are to be interpreted consistently with the jurisprudence of the ECtHR. Individuals can petition the Constitutional Court for claims of human rights violations by public authorities after exhausting regular legal remedies.<sup>66</sup>

Discrimination on the basis of gender, race, colour, language, national or social origin, sexual orientation or gender identity is prohibited in Kosovo and applies to all acts or omissions of all institutions and natural and legal persons in the public and private sectors in all areas of life.<sup>67</sup> The Criminal Code stipulates heavier sentences for hate crimes, including crimes against a person on the grounds of their sexual orientation or gender identity, for assault, light bodily injury, grievous bodily injury, incitement of hatred and intolerance, murder, violating the equal status of citizens and residents of Kosovo, and destruction or damage of property.<sup>68</sup> Additionally, any other criminal offence committed against a person because of their sexual orientation or gender identity is considered an aggravating circumstance in sentencing procedures.<sup>69</sup>

Kosovo's state response to domestic violence is guided by international human rights law and standards,<sup>70</sup> as well as a set of national laws and policies designated to prevent domestic violence, protect and support survivors, and prosecute and punish perpetrators.

## KEY INTERNATIONAL HUMAN RIGHTS STANDARDS ON DOMESTIC VIOLENCE

International law and standards on domestic violence have been developed within the framework of gender-based violence and violence against women.<sup>71</sup> Violence against women has been recognized as a form of gender-based discrimination, which results from the historically unequal power relations between women and men,<sup>72</sup> and which "seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men."<sup>73</sup>

CEDAW requires states to take all appropriate measures to "eliminate discrimination against women by any person, organization or enterprise" and "modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women".<sup>74</sup> The obligation to eliminate gender-based discrimination and violence against women is of an immediate nature and delays cannot be justified on any grounds, including on economic, cultural or religious grounds.<sup>75</sup> States are responsible for preventing and prosecuting gender-based violence by state actors,<sup>76</sup> and have a "due diligence" obligation "to take all appropriate measures to prevent as well as to investigate, prosecute, punish and provide reparation for acts or omissions by non-state actors which result in gender-based violence against women."<sup>77</sup> Furthermore, the obligation of states to prevent and respond to acts of violence against women with "due diligence" has become part of customary international law.<sup>78</sup>

<sup>65</sup> CoE, The National Assembly of Kosovo decides to apply the Istanbul Convention, 25 September 2020, [coe.int/en/web/istanbul-convention/-/the-national-assembly-of-kosovo-decides-to-apply-the-istanbul-convention](https://coe.int/en/web/istanbul-convention/-/the-national-assembly-of-kosovo-decides-to-apply-the-istanbul-convention)

<sup>66</sup> Constitution of the Republic of Kosovo, Article 113.

<sup>67</sup> Constitution of the Republic of Kosovo, Articles 1, 2 & 25(2); Law No.05/L-21 on Protection from Discrimination, Article 2.

<sup>68</sup> Criminal Code of Kosovo, Articles 184, 185, 186, 141, 172, 190 & 321.

<sup>69</sup> Criminal Code of Kosovo, Article 70(2.12).

<sup>70</sup> For a more detailed discussion of international law and standards around domestic violence and a survivor-centred approach, see Text Box on p. 24.

<sup>71</sup> This framework includes legally binding treaties such as the CEDAW; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol); and the Council of Europe convention on preventing and combating violence against women and domestic violence (the Istanbul Convention). In addition, there has been authoritative guidance by the CEDAW Committee in its General Recommendations No.19, No.28, No.33 and No.35, as well as in multiple concluding observations on countries; international policy instruments such as the Beijing Declaration and Platform for Action; ground-breaking CEDAW Committee decisions (for example *AT v. Hungary* (2005), *Fatma Yildirim v. Austria* (2007), *Vertido v. The Philippines* (2010), *S.V.P. v. Bulgaria* (2011); *R.P.B v. The Philippines* (2011)); as well as decisions by the Inter-American Commission on Human Rights, Inter-American Court, and the European Court of Human Rights (for example *Maria da Penha Maia Fernandes v. Brazil* (2000), *Velasquez-Rodriguez v. Honduras* (1988), *Raquel Marti de Mejia v. Peru* (1996), *Aydin v. Turkey* (1997); *Opuz v. Turkey* (2009)).

<sup>72</sup> Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, preamble; Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa, preamble; The Istanbul Convention, preamble. See also CEDAW Committee, General Recommendation No.19: Violence against women, 1992, para. 6.

<sup>73</sup> CEDAW Committee, General Recommendation No.19 (previously cited), para. 1.

<sup>74</sup> CEDAW, Articles 2(e) & (f).

<sup>75</sup> CEDAW Committee, General Recommendation No.35 (previously cited), para. 21.

<sup>76</sup> CEDAW Committee, General Recommendation No.35 (previously cited), paras 21 and 22.

<sup>77</sup> CEDAW Committee, General Recommendation No.19 (previously cited), para. 9; See also CEDAW Committee, General Recommendation No.35 (previously cited), para. 24(b).

<sup>78</sup> CEDAW Committee, General Recommendation No.35 (previously cited), para. 2.

The Istanbul Convention<sup>79</sup> further codifies the “due diligence” standard in relation to states’ obligation to address gender-based violence against women in legally binding norms with regards to four key areas including prevention; provision of protection, support, and reparations to survivors; prosecution of perpetrators; and coordinated national policies against gender-based violence.<sup>80</sup>

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<sup>79</sup> The CoE-adopted Istanbul Convention entered into force in 2014. It is the third regional treaty on violence against women after the Inter-American Convention of Belém do Pará, adopted in 1994, and the Maputo Protocol, adopted in 2003 by the African Union. The Istanbul Convention is the most far-reaching international treaty to tackle violence against women including domestic violence. It provides a comprehensive framework to address gender-based violence based on an in-depth analysis of challenges and good practices across CoE Member States.

<sup>80</sup> See CoE, *Safe from fear, safe from violence*, 2014, p.3, available at: [edoc.coe.int/en/violenceagainst-women/6138-leaflet-safe-from-fear-istanbul-convention.html](https://www.coe.int/en/violenceagainst-women/6138-leaflet-safe-from-fear-istanbul-convention.html)

## COMPREHENSIVE, SURVIVOR-CENTRED AND GENDER-RESPONSIVE POLICIES TO COMBAT AND PREVENT GENDER-BASED VIOLENCE AND DOMESTIC VIOLENCE

Add body text here. The due diligence standard reflected in the Istanbul Convention requires states to adopt and implement comprehensive and coordinated policies to prevent and combat all forms of violence against women, including domestic violence.<sup>81</sup> These policies must be implemented through effective cooperation among all relevant agencies, institutions and organizations, including national human rights institutions and civil society organizations.<sup>82</sup> Furthermore, such policies should take a gender-sensitive, survivor-centred and non-discriminatory approach, which involves the following:

- A **gender-sensitive** approach means that policies should take into account the harmful gender stereotypes and roles and unequal gender power dynamics underlying domestic violence, integrate a gender perspective in the design, implementation and evaluation of the response to domestic violence, and promote and effectively implement policies of gender equality and the empowerment of women.<sup>83</sup>
- A **survivor-centred** approach entails respect for survivors' agency, dignity, rights and needs, and includes protecting and promoting their agency, autonomy, confidentiality, privacy and safety. In particular:
  - Respect for survivors' agency and autonomy, and the right to make decisions (for example, deciding whether to report an incident to the police or renew contact with a perpetrator). Additionally, this requires survivors' participation in the design, implementation and monitoring of state policies on domestic violence.
  - Consideration of a survivor's family and social environment in the provision of safety, support and health services (for example, where survivors are ostracized by their families or cannot return to their homes).
  - Providing information and education to survivors about their legal rights and existing mechanisms to protect them.
  - Responding to both survivors' immediate needs (for example, sexual and reproductive healthcare, other medical care, safety, psychological needs, legal aid), as well as providing longer-term socio-economic support (such as ongoing counselling and health care, access to income, employment, housing, transportation) for the survivors and their dependents.<sup>84</sup>

A **non-discriminatory** approach promotes respect and equality for all survivors of gender-based violence by offering protection and support without discrimination, including with respect to their age, disability, marital status, association with a national minority, migrant or refugee status, gender identity or sexual orientation, among other protected characteristics. Furthermore, this means that all systems to prevent and respond to domestic violence must pay particular attention to the impact of multiple and intersecting forms of discrimination on survivors' specific experience of violence, their specific needs and distinct barriers they face in accessing protection and support services.<sup>85</sup> These include, for example, women with disabilities; women from minority communities; lesbian, bisexual, transgender and intersex women; women in rural areas; migrant, asylum-seeking and refugee women; younger or older women; homeless women, and so on. Measures to prevent and respond to domestic violence should extend systematically to these groups and be accessible to them and tailored to their specific needs.

The Law on Protection against Domestic Violence from 2010 provides protection measures which survivors can request from courts in civil procedures.<sup>86</sup> In November 2022, the government proposed to the Assembly a new law on prevention of and protection from domestic violence, violence against women and gender-

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<sup>81</sup> Istanbul Convention (previously cited), Article 7.1.

<sup>82</sup> Istanbul Convention (previously cited), Articles 7.2 & 7.3.

<sup>83</sup> Istanbul Convention (previously cited), Article 6.

<sup>84</sup> UN Women, "Virtual knowledge centre to end violence against women and girls", 31 October 2010, [endvawnow.org/en/articles/312-ensuring-survivor-centred-and-empowering-approaches.html](https://endvawnow.org/en/articles/312-ensuring-survivor-centred-and-empowering-approaches.html); CEDAW General Recommendation 35 (previously cited), para 28.

<sup>85</sup> Istanbul Convention (previously cited), Article 3. See also CEDAW Committee, General Recommendation No.35 (previously cited), paras 41, 43 & 47-50.

<sup>86</sup> Law No.03/L-182 on protection against domestic violence, 2010, [gzk.rks-gov.net/ActDetail.aspx?ActID=2691](https://gzk.rks-gov.net/ActDetail.aspx?ActID=2691), Article 2(1.2). This law contains a definition of domestic violence.



based violence, which will replace the 2010 law.<sup>87</sup> In March 2023, the Assembly of Kosovo approved the first reading of the draft law. At the time of writing, the new draft law is expected to be enacted during 2023.<sup>88</sup>

Survivors of domestic violence can initiate a criminal complaint by reporting domestic violence to the police or State Prosecution Office. The Criminal Code defines domestic violence as “physical, psychological or economic violence or mistreatment with the intent to violate the dignity of another person within a domestic relationship”,<sup>89</sup> where a “domestic relationship” includes past and current intimate partner relationships within and outside of marriage where the parties live or have lived together as well as family relationships where the parties live together.<sup>90</sup>

**The Kosovo Police** are responsible for responding to any reports of acts or threats to commit acts of domestic violence, regardless of who reports them, implementing protection orders and responding to any violations of such orders and issuing emergency protection orders.<sup>91</sup>

**The 2010 Law on Protection against Domestic Violence** gives the police additional responsibilities including arresting the alleged perpetrator if there are grounds for suspicion of domestic violence; removing the perpetrator from the place of residence where the protected party is staying; providing a special telephone line for reporting domestic violence; informing the victim about their right to request protection orders; informing the victim about legal, psychological and other state- or NGO-run assistance services available; upon request from the victim, informing victim advocates about the domestic violence report, ensuring access to medical treatment for the victim and transportation to the medical facilities or a safe shelter or place of residence; and, where there is reasonable suspicion that there is a case of domestic violence, giving the victim and their legal representative updates on the investigative process, including the perpetrator’s whereabouts or details of their forthcoming release from detention.<sup>92</sup>

**The Office of the State Prosecutor** is an independent state institution responsible for criminal prosecution of persons charged with criminal offences.<sup>93</sup> State prosecutors are the only institution authorized to initiate criminal court proceedings through indictments.<sup>94</sup> Survivors of domestic violence typically come into contact with state prosecutors when the trial starts.<sup>95</sup> Prosecutors are obliged to inform victims of domestic violence about their rights and in cooperation with victim advocates they offer advice to victims about the criminal procedure until the end of the court process.<sup>96</sup>

**Domestic violence is also prosecuted *ex-officio* by the State Prosecution**, which means that the prosecution can proceed with the case if it has gathered enough evidence of the criminal offence, regardless of the survivor’s decision to continue or withdraw from the case. Criminal court proceedings can be held regardless of whether the victim is present; however, the victim may be called as a witness to testify in court.<sup>97</sup>

**The Victim Advocacy and Assistance Office** functions under the Office of the State Prosecutor and provides information, advice and direct assistance and legal representation to all victims of crimes. In civil court proceedings, victim advocates may initiate requests for protection orders on behalf of victims of domestic violence and represent them in court. They may also represent the victim’s interests in criminal court proceedings for domestic violence.<sup>98</sup>

**Basic Courts in Kosovo:** there are seven first instance Basic Courts in Kosovo: in Pristina, Prizren, Peja, Gjakova, Gjilan, Ferizaj and Mitrovica.<sup>99</sup> In cases of domestic violence, the Basic Courts’ Civil Divisions are responsible for receiving and deciding on requests for protection orders, child custody, divorce, alimony, and property division. Courts may issue protection orders or emergency protection orders.<sup>100</sup> The Basic Courts have a Criminal Division mandated to handle criminal proceedings when the prosecution raises an

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<sup>87</sup> Draft Law on Prevention and Protection from Domestic Violence, Violence against Woman and Gender-based Violence, (last accessed on 23 August 2023),

[https://kuvendikosoves.org/Uploads/Data/Documents/PLperparandalimindhembrojtjennghunanefamilje\\_H4hdJpJDL8.pdf](https://kuvendikosoves.org/Uploads/Data/Documents/PLperparandalimindhembrojtjennghunanefamilje_H4hdJpJDL8.pdf).

<sup>88</sup> Draft Law on Prevention and Protection from Domestic Violence, Violence against Woman and Gender-based Violence (previously cited).

<sup>89</sup> Criminal Code of Kosovo (previously cited), Article 248.

<sup>90</sup> Criminal Code of Kosovo (previously cited), Article 70(2.12).

<sup>91</sup> Law on protection against domestic violence (previously cited), Articles 3(4) & 24. Protection orders are issued by courts within 15 days from filing a request. Emergency protection orders are issued by courts or the police within 24 hours. See Law on protection against domestic violence (previously cited), Articles 15 & 16.

<sup>92</sup> Law on protection from domestic violence (previously cited), Article 24.

<sup>93</sup> Constitution of the Republic of Kosovo, Article 109.

<sup>94</sup> Criminal Code of Procedure of Kosovo, Article 6.

<sup>95</sup> Agency of Gender Equality, Standard Operating Procedures for Protection from Domestic Violence in Kosovo, 2013, [abgi.rks-gov.net/assets/cms/uploads/files/Publikimet%20ABGJ/Procedurat%20Standarte%20t%C3%AB%20Veprimit%20p%C3%ABr%20mbrojtje%20onga%20Dhuna%20n%C3%AB%20Familje.pdf](http://abgi.rks-gov.net/assets/cms/uploads/files/Publikimet%20ABGJ/Procedurat%20Standarte%20t%C3%AB%20Veprimit%20p%C3%ABr%20mbrojtje%20onga%20Dhuna%20n%C3%AB%20Familje.pdf), p. 23.

<sup>96</sup> Agency for Gender Equality, Standard Operating Procedures for Protection from Domestic Violence in Kosovo (previously cited), p. 48.

<sup>97</sup> Criminal Code of Procedure of Kosovo, Article 124(2).

<sup>98</sup> Law on protection from domestic violence (previously cited), Article 2(1.8).

<sup>99</sup> Kosovo, Law 06/L-054 on Courts, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18302&langid=2>, Article 9.

<sup>100</sup> Law on protection against domestic violence (previously cited), Article 17(1) & Article 3(4).

indictment for domestic violence. The Court of Appeals based in Pristina hears complaints against decisions issued by the Basic Courts.

**Protection orders** can include measures such as prohibition from approaching or harassing the protected party, removal of the perpetrator of violence from the living premises, accompanying the protected party to collect personal belongings, ordering the perpetrator to allow the protected party to use the shared living premises, ordering the perpetrator to pay rent for temporary living premises or to pay alimony, and prohibiting the perpetrator from selling any assets within a time period. Additionally, protection orders may include mandatory treatment of alcohol or psychotropic substance dependence and/or psychosocial treatment for the perpetrator of domestic violence, and confiscation of item(s) used to commit acts of violence.<sup>101</sup>

**Shelters for domestic violence survivors** are safe houses where survivors and their children can be temporarily accommodated when it is not possible for them to stay in their own homes.<sup>102</sup> Shelters offer food, clothing, psychosocial counselling and support services, health services and access to medication, legal advice and other activities.<sup>103</sup> Shelters are run by NGOs licensed by the Ministry of Finance, Transfers, Social Welfare and Labour.

**The Centers for Social Work (CSW)**, under the Ministry of Justice since 2022, operate in all 38 municipalities in Kosovo providing social and family services to survivors and their children. Case workers at CSWs are responsible for identifying and co-ordinating existing services for survivors and for referring them to other available services such as shelters.

**The National Strategy for Protection against Domestic Violence and Violence against Women (2022-2026)** was approved by the government in March 2022<sup>104</sup> and includes four main strategic objectives: 1) Prevention and identification of violence, 2) Advancing and harmonizing public policies with international standards, 3) Strengthening institutions that prevent and address domestic violence, and 4) Providing general and specialized support services to victims.<sup>105</sup> A key principle of the strategy is the victim-centred approach. The strategy defines and determines a number of principles guiding the approach.<sup>106</sup> However, it does not provide details about how the victim-centred approach should be implemented. Another guiding principle of the National Strategy is the requirement to take an intersectional approach by recognizing and addressing factors shaping women's experiences of violence including "race, colour, religion, origin, wealth, marital status, sexual orientation, HIV/AIDS status, immigrant or refugee status, age, disability, etc."<sup>107</sup>

**The Agency for Gender Equality** was established in 2015.<sup>108</sup> Its mandate is, among other things, to propose laws and other legal instruments to implement measures from the Law on Gender Equality and to implement, coordinate and monitor public policies on gender equality in Kosovo.<sup>109</sup>

**Standard Operating Procedures for Protection from Domestic Violence** in Kosovo were developed by the Agency for Gender Equality with the cooperation of all institutions involved in the state response to domestic violence and adopted in 2013.<sup>110</sup> These Procedures recognize that domestic violence is a human rights violation and provide detailed guidance for institutions responsible for responding to domestic violence.<sup>111</sup> New standard operating procedures are planned to be adopted after the entry into force of the new Law on Prevention and Protection from Domestic Violence, Violence against Women and Gender-based Violence, which is expected to be enacted during 2023.<sup>112</sup>

**Kosovo Police Standard Operating Procedures for the Prevention and Treatment of Cases of Domestic Violence:** The Kosovo Police has developed separate standard operating procedures for the prevention and treatment of cases of domestic violence, approved in April 2022. The new standard operating procedures provide detailed guidance for police officers and follow three aims: 1) prevention of domestic violence; 2) offering support and safety for victims and others; 3) developing a professional investigation into all reports of

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<sup>101</sup> Law on protection against domestic violence (previously cited), Articles 4-11.

<sup>102</sup> Agency for Gender Equality, Standard Operating Procedures for Protection from Domestic Violence in Kosovo (previously cited), p. 25.

<sup>103</sup> Agency for Gender Equality, Standard Operating Procedures for Protection from Domestic Violence in Kosovo (previously cited), p. 46.

<sup>104</sup> Ministry of Justice, National Strategy for Protection against Domestic Violence and Violence against Women 2022-2026, 14 March 2022, [kryeministri.rks-gov.net/en/blog/national-strategy-on-protection-against-domestic-violence-and-violence-against-women-2022-2026-14-03-2022-2/](https://kryeministri.rks-gov.net/en/blog/national-strategy-on-protection-against-domestic-violence-and-violence-against-women-2022-2026-14-03-2022-2/)

<sup>105</sup> For a breakdown of the aims under these objectives, see pp. 38-49 of the National Strategy (previously cited).

<sup>106</sup> Ministry of Justice, National Strategy for Protection against Domestic Violence and Violence against Women 2022-2026, (previously cited), p. 36.

<sup>107</sup> Ministry of Justice, National Strategy for Protection against Domestic Violence and Violence against Women 2022-2026, (previously cited), p. 36.

<sup>108</sup> Law on Gender Equality (previously cited), Article 7.

<sup>109</sup> Law on Gender Equality (previously cited), Article 8.

<sup>110</sup> Agency for Gender Equality, Standard Operating Procedures for Protection from Domestic Violence in Kosovo (previously cited).

<sup>111</sup> Agency for Gender Equality, Standard Operating Procedures for Protection from Domestic Violence in Kosovo (previously cited), p. 21.

<sup>112</sup> Draft-Law on prevention and protection from domestic violence, violence against woman and gender-based violence (previously cited).

domestic abuse.<sup>113</sup> It includes several positive developments including the requirement that police stations have a specialized police officer(s) for domestic violence. Nevertheless, there is an over-emphasis in the standard operating procedures on the protection and importance of the family as the “basis of every society”, instead of the human right of every individual to live free from violence.<sup>114</sup> It states that police officers should consider a “gender perspective” in cases of domestic violence,<sup>115</sup> without explaining what that means in practice. The document recognizes that domestic violence is a human rights violation; nevertheless, it does not mention that it affects women and girls disproportionately because they are women and girls.

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<sup>113</sup> Kosovo Police, Standard Operating Procedures for the Prevention and Treatment of Domestic Violence, 8 April 2022, provided to Amnesty International from the Kosovo Police, p. 3.

<sup>114</sup> Kosovo Police, Standard Operating Procedures for the Prevention and Treatment of Domestic Violence (previously cited), p. 3.

<sup>115</sup> Kosovo Police, Standard Operating Procedures for the Prevention and Treatment of Domestic Violence (previously cited), p. 7.

# 3. CHALLENGES FACING SURVIVORS TRYING TO LEAVE ABUSIVE RELATIONSHIPS

This section of the report follows the path of survivors trying to leave situations of domestic violence. It outlines the challenges survivors face when attempting to access information, protection, support services and justice, and discusses how these challenges affect survivors' ability to pursue independence and live free from psychological and physical violence. As this research shows, despite the efforts by Kosovo's authorities in recent years to strengthen legislation and improve policies to address survivors' needs, women and girls who try to leave abusive situations face numerous barriers. These include a lack of information on available assistance, disrespectful treatment by police officers, overworked social workers and inadequate support services. They also face obstacles to obtaining protection and accessing justice and remedies, including longer-term support and economic opportunities for an independent life free from violence.

## 3.1 FAILURE TO PROVIDE SURVIVORS WITH ADEQUATE ACCESS TO INFORMATION

Leaving a situation of domestic violence is challenging and often requires planning. In order to make informed decisions about their options, survivors need to know what state support services and protection are available. Yet, most survivors report not having information about their rights or available services before reporting their cases to the authorities.<sup>116</sup> Amnesty International's research found numerous gaps in the provision of information to domestic violence victims, with responsible authorities often failing to ensure that relevant information is available and easily accessible to those who need it.

### 3.1.1 LACK OF A SPECIALIZED HELPLINE

Kosovo currently has no telephone helpline specifically for people affected by gender-based violence and domestic violence, in contravention of the requirements set out in the Istanbul Convention.<sup>117</sup> However, at the time of writing, survivors of domestic violence could access the 24-hour Victim Advocacy and Assistance Office helpline for all victims of crime and the general 24-hour emergency line operated by the police in case

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<sup>116</sup> Amnesty International, Interviews with survivors of domestic violence "Ana", "Edona", "Kaltrina", "Diella", "Diana", "Filloreta", "Eliza", "Gresa A", "Gresa B", "Dina", "Mejrem", "Vjollca", "Learta" and "Pati", August-December 2022.

<sup>117</sup> Istanbul Convention (previously cited), Art. 24.

of immediate danger. Additionally, some NGOs running local shelters operated specialized regional telephone lines.

The Victim Advocacy and Assistance Office helpline is tasked with providing survivors of domestic violence with practical information about referral services as well as making referrals to relevant institutions - such as shelters and social services.<sup>118</sup>

A 2022 State Prosecutor's Office Report shows that between January and September 2022, the Victim Advocate's Office helpline received a total of 336 calls for all crimes. According to the former Director of the Victim's Advocate Office, the number of calls to this helpline has been in a steady decline since 2020. This is quite surprising considering that, during the same period, the number of domestic violence cases reported to the Kosovo Police has increased significantly, from 2,101 in 2020 to 2,793 reports in 2022, and, as discussed above, is likely to only reflect a fraction of the cases. Amnesty International's research found that the survivors interviewed were not aware of the helpline.

Although the authorities claim that the helpline is advertised widely each year, primarily during the 16 days of activism against gender-based violence (25 November to 10 December) and the national week of the rights of victims of crime in October,<sup>119</sup> Amnesty International's review of the campaign materials found that the only helpline promoted during the 16 days of activism was the police-operated general emergency number.<sup>120</sup> A government campaign conducted during the 16 days of activism in 2022 included sponsored advertisements on national television and social media,<sup>121</sup> as well as generic SMS messages, calling on the public to report domestic violence cases to the Police, but generally did not include any other contact numbers.

Interventions such as information campaigns need to happen year-round to provide timely and effective access to comprehensive information to those who need it. Public information and awareness-raising campaigns should also tackle other issues including increasing awareness and understanding of the different forms of violence against women and domestic violence,<sup>122</sup> including forced and early marriages, and challenge the public perception of domestic violence as a private matter. Information should be available in multiple languages and accessible formats. Currently, the Victim Advocacy and Assistance Office' helpline operators provide support and information in Albanian and Serbian languages and can connect survivors with Turkish-speaking victim advocates, but the helpline is not accessible in Romani.<sup>123</sup>

Time-limited information campaigns and the lack of comprehensive information undermine the effectiveness of government efforts to inform the public, while the focus on the police as the primary point of contact contributes to the police becoming the de facto gatekeepers to services for survivors of domestic violence.

NGOs have stepped in to fill the gap. The Safe House in Gjakova, which like all other shelters in Kosovo is managed by an NGO, operates a free-of-charge 24-hour helpline that provides information for survivors on how to seek protection.<sup>124</sup> Additionally, the staff provide information to survivors through text messages or emails. According to the director, mobile and email communication was particularly crucial during the Covid-19 lockdown in 2020 when many survivors were at home with their abusers and could not safely make telephone calls.<sup>125</sup> The Victim Advocacy and Assistance Office currently does not provide a similar service, but the then office director confirmed that they were considering extending services to provide information through online instant messages, text messages or emails.<sup>126</sup>

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<sup>118</sup> Prokuroria e Shtetit, "Zyra e Linjës Ndihmëse", [prokuroria-rks.org/psh/zmnv/70/linijat-ndihmese](https://prokuroria-rks.org/psh/zmnv/70/linijat-ndihmese) (last accessed on 24 July 2023).

<sup>119</sup> Amnesty International, Interview with Basri Kastrati, the then director of the Victim Advocacy and Assistance Office, August 2022. Office of the State Prosecutor, Fjalimi i Kryeprokurorit të Shtetit, "Aleksandër Lumezi me rastin e mbajtjes së 'Javës për të Drejtat e Viktimave të Krimit'", 19 October 2020, [prokuroria-rks.org/psh/aktivitetet-prokurorit-single/6059](https://prokuroria-rks.org/psh/aktivitetet-prokurorit-single/6059)

<sup>120</sup> Ministry of Justice, "Official global campaign calendar 16 days of activism against Gender Based Violence", 24 November 2022, [md.rks-gov.net/desk/inc/media/238A167D-C5F8-48CA-8154-881579D835ED.png](https://md.rks-gov.net/desk/inc/media/238A167D-C5F8-48CA-8154-881579D835ED.png)

<sup>121</sup> Prime Minister's Office, "Message from the Prime Minister Albin Kurti", 25 November 2022, [facebook.com/MinistriaeDrejtisesive/videos/545046044141082](https://facebook.com/MinistriaeDrejtisesive/videos/545046044141082)

<sup>122</sup> Istanbul Convention (previously cited), Article 13.

<sup>123</sup> CoE, *Assessment of the alignment of Kosovo's laws, policies, and other measures with standards of the Istanbul Convention*, 2022, [rm.coe.int/kosovo-assessment-report-istanbul-convention-eng/1680a9203e](https://rm.coe.int/kosovo-assessment-report-istanbul-convention-eng/1680a9203e), page 50.

<sup>124</sup> Shtëpia e Sigurt në Gjakovë, Rreth nesh, <https://shtepiaesigurt.com/rreth-nesh/> (last accessed on 23 July 2023).

<sup>125</sup> Amnesty International, Interview with Erëblina Dinarama, director of the Safe House in Gjakova, August 2022.

<sup>126</sup> Amnesty International, Interview with Basri Kastrati, August 2022.

Other NGO run shelters in Kosovo have launched similar regional initiatives. In Pristina,<sup>127</sup> Prizren,<sup>128</sup> Mitrovica,<sup>129</sup> Peja,<sup>130</sup> Novo Brdo,<sup>131</sup> and Gjiilan,<sup>132</sup> survivors can contact the shelters through calling their official phone number with normal applicable tariffs, or online.

However, shelters, which are run by NGOs, do not have staff that speaks Romani. Due to social exclusion, discrimination and economic hardship, Roma, Ashkali and Egyptian women face many barriers in accessing tailored information, support and protection from NGOs. The lack of access to information, combined with distrust in public institutions, fear of stigma, retaliation from the abusers and lack of financial independence leaves many members of these already marginalized communities without access to urgently needed assistance.<sup>133</sup>

In the National Strategy for Protection against Domestic Violence and Gender-Based Violence (2022-2026), the Government of Kosovo committed to create an effective 24-hour helpline which would be specialized to deal with all forms of violence against woman and domestic violence and provide information and advice in all official languages in Kosovo.<sup>134</sup> Despite this commitment, according to a March 2023 Ministry of Justice report, budgetary planning for establishing and functionalising the helpline is yet to be made.<sup>135</sup> In response to Amnesty International's official request for information, the Ministry of Justice stated that the lead institution for establishing the helpline is the Ministry of Health and did not provide additional information about the steps taken to address this issue.<sup>136</sup> According to the National Strategy on protection from domestic violence, however, the institutions that share responsibility for establishing the helpline are the Ministry of Health, Ministry of Justice, Ministry of Finance, Labour and Transfers and the Agency for Gender Equality.<sup>137</sup>

In 2022 the Council of Europe (CoE) and GREVIO – the independent expert body responsible for monitoring states' implementation of the Istanbul Convention – welcomed Kosovo's commitment to establish a 24-hour helpline in line with the Istanbul Convention, and called on the government to ensure the helpline was free, anonymous, round-the-clock, confidential, available across the territory and in all relevant languages, capable of providing counselling to victims, and operated by qualified, trained staff.<sup>138</sup>

The Government of Kosovo should provide comprehensive and accessible information on all available services and resources for domestic violence survivors through diverse channels and make particular efforts to reach out to survivors facing multiple and intersecting forms of discrimination, including survivors from Serb, Turkish, Roma, Ashkali and Egyptian communities, LGBTI survivors, those living in remote or rural areas, and survivors with disabilities, among others.

### 3.1.2 LACK OF INFORMATION ABOUT SUPPORT SERVICES

Despite the clear legal obligation of the authorities to fully inform victims of domestic violence of their rights, as well as providing information about legal, psychological and other services, including shelters, 15 out of 20 survivors interviewed by Amnesty International reported not having had this crucial information when they experienced violence.<sup>137</sup> Moreover, Amnesty International's research found significant gaps in the information that various institutions provided to victims of domestic violence who approached them for assistance.

Information about shelters operating across the country was not readily available to survivors. Zana Hamiti, the director of the Shelter House in Pristina, recounted a case from June 2022 when a survivor with injuries sustained from abuse travelled an hour by bus from Mitrovica to the shelter with her four children. The woman was not aware that there was a shelter in Mitrovica and travelled instead to Pristina after seeing Zana Hamiti speaking on television about the Pristina shelter.<sup>138</sup>

<sup>127</sup> Amnesty International, Interview with Zana Hamiti, director of the Shelter in Pristina, May and August 2022.

<sup>128</sup> Amnesty International, Interview with Jubilea Kabashi, director of the shelter in Prizren, July 2022.

<sup>129</sup> Amnesty International, Interview with Fidane Hyseni, director of the shelter house in Mitrovica, August 2022.

<sup>130</sup> Qendra për Mbrojtjen e Gruas Pejë, [qmg-ks.org/kontakt/](http://qmg-ks.org/kontakt/) (last accessed on 24 July 2023).

<sup>131</sup> Amnesty International, Interview with Vesna Stajić, September 2022.

<sup>132</sup> Qendra për Mbrojtjen dhe Rehabilitimin e Grave dhe Fëmijëve "Liria" Gjian, [facebook.com/QMRGF000/](https://www.facebook.com/QMRGF000/)

<sup>133</sup> CoE, *Assessment of the alignment of Kosovo's laws, policies and other measures with the standards of the Istanbul Convention* (previously cited), para. 18.

<sup>134</sup> Ministry of Justice, National Strategy for Protection against domestic violence and violence against women 2022-2026 (previously cited), p. 101.

<sup>135</sup> *Annual Report on the Implementation of the National Strategy on Protection against Domestic Violence and Violence against Women* (previously cited), page 13.

<sup>136</sup> CoE, *Assessment of the alignment of Kosovo's laws, policies and other measures with the standards of the Istanbul Convention* (previously cited), para. 152.

<sup>137</sup> Interviews with survivors of domestic violence "Ana", "Edona", "Kaltrina", "Diella", "Diana", "Filloreta", "Eliza", "Gresa A", "Gresa B", "Dina", "Mejrem", "Vjollca", "Learta", "Maja", and "Pati" (names changed for anonymity), August-December 2022.

<sup>138</sup> Amnesty International, Interview with Zana Hamiti, May 2022.

Survivors frequently reported that they found out about legal protection measures, support services and relevant institutions only after reporting their cases to the police. While this was the case with 19 out of 20 survivors Amnesty International spoke to, in at least four cases documented during the research, police had failed to inform women that going to a shelter was an option.<sup>139</sup>

“Diana” from Pristina reported her husband to the police after enduring physical and psychological violence for three years. She told Amnesty International that the police never told her that she could go to a shelter. After reporting her husband, she slept in her car for one week as she was too afraid to go home. “No one offered me shelter, food, nothing,” she recalled.<sup>140</sup> Amnesty International’s research confirmed that, in some cases, police failed to provide information about support services to survivors despite being legally obliged to do so.<sup>141</sup> Likewise, in a 2019 government survey of 100 police officers from 18 municipalities in Kosovo, 79 failed to mention shelters as a key service for victims of domestic violence.<sup>142</sup>

Lack of information appears to be a systematic issue. A 2019 OSCE survey of almost 2,000 women living in Kosovo showed that most of them were not informed about specialized support services, or what they can do if they experience violence.<sup>143</sup> Lack of information about support services directly undermines the survivor’s decision-making power and potentially leaves them at risk of abuse.

International human rights law and standards require Kosovo to take necessary legislative and other measures for ensuring that survivors of domestic violence receive adequate and timely information on support services and legal measures in accessible languages and formats.<sup>144</sup> In 2022, the CoE/GREVIO report urged the Kosovo authorities to meet their international obligations in this regard.<sup>145</sup> Moreover, the Istanbul Convention obliges states to set up a free, 24-hour state-wide telephone helpline to provide confidential advice on all forms of gender-based violence and domestic violence. It also urges states to reach out proactively to victims, especially women and children needing shelter accommodation.<sup>146</sup>

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<sup>139</sup> Interviews with “Diella”, “Diana”, “Nita” and “Filloreta” (names changed for anonymity), September 2022.

<sup>140</sup> Interview with “Diana” (name changed for anonymity), September 2022.

<sup>141</sup> Amnesty International, Interviews with survivors of domestic violence “Filloreta”, “Nita”, “Edona”, “Diana”, “Gresa A” and “Gresa B”, (names changed for anonymity) June-September 2022. Law on protection against domestic violence (previously cited), Article 24(3.3).

<sup>142</sup> Agency for Gender Equality, “Assessment of the level of implementation of the standard operating procedures for protection against domestic violence”, September 2019, [abgj.rks-gov.net/assets/cms/uploads/files/Raporti%20ABGJ%20-%20Versimi%20i%20nivelit\(1\).pdf](http://abgj.rks-gov.net/assets/cms/uploads/files/Raporti%20ABGJ%20-%20Versimi%20i%20nivelit(1).pdf)

<sup>143</sup> OSCE, “Survey on violence against women – Survey on well-being and safety of women in Kosovo”, (previously cited), p. 83.

<sup>144</sup> CEDAW Committee, General Recommendation No.35 (previously cited), paras 30(b)(ii) & 31(d). See also Istanbul Convention (previously cited), Article 56 (1).

<sup>145</sup> CoE, *Assessment of the alignment of Kosovo’s laws, policies and other measures with the standards of the Istanbul Convention* (previously cited), para. 123.

<sup>146</sup> Istanbul Convention (previously cited), Article 24.

# 4. POLICE FAILING VICTIMS OF DOMESTIC VIOLENCE

**“If something were to happen to me today, I wouldn’t call the police.”**

“Nita”, a survivor of domestic violence from Pristina.<sup>147</sup>

The police play an important role in preventing and protecting people from domestic violence. For most survivors in Kosovo, the police are their first point of contact when they decide to leave an abusive situation.<sup>148</sup> Recent revision of the police’s standard operating procedures have re-emphasized the duty to handle cases of domestic violence in a victim-centred manner and progress has been made in appointing specialized police officers to handle cases of domestic violence in each police station.<sup>149</sup> However, Amnesty International’s findings highlight persistent failures by the police to adequately respond to reports of domestic violence. The majority of survivors interviewed for this report faced challenges in reporting their cases to the police, including disbelief and disparaging attitudes. They reported that police officers turned them away, made them feel guilty for or tried to dissuade them from filing a report, belittled them or blamed them for the violence they had experienced.

## 4.1 SURVIVORS FACING DISBELIEF AND PREJUDICE BY THE POLICE

Ten out of 19 survivors, including eight cis-women and two trans women, described police officers being disrespectful, prejudicial or not taking their cases seriously. Police officers’ behaviour often conveyed strong patriarchal attitudes and a belief that domestic violence was a family matter or even normal in a relationship. “Diella”, a survivor from Pristina who had reported her husband multiple times for physical and psychological violence, went to the police to report him for continuously hacking her online accounts,

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<sup>147</sup> Interview with “Nita” (name changed for anonymity), September 2022.

<sup>148</sup> Amnesty International interviewed 20 survivors for this report; 18 had reported their cases first through the police. The Kosovo Police and the government both recognize that the police are the first point of contact for victims of domestic violence and other forms of violence against women. See: Kosovo Police, Standard Operating Procedures for Prevention and Treatment of Cases of Domestic Violence, 8 April 2022, p. 8, para. c. Ministry of Justice, National Strategy on Protection against Domestic Violence and Violence against Women 2022-2026 (previously cited), p. 24.

<sup>149</sup> Amnesty International, Interview with Police Captain Arsim Shala, Chief of the Unit for Prevention of Domestic Violence at the General Directory of the Police Community and Prevention, June 2022. Kosovo Police, Standard Operating Procedures for Prevention and Treatment of Cases of Domestic Violence (previously cited).



including her emails and social media accounts. “Diella” was referred to the cybercrime department, where, she said, a policeman did not treat her case seriously and told her that “women deserve to be beaten up”.<sup>150</sup>

“Nita” from Pristina, who reported her husband after three years of continuous psychological, economic, physical and sexual violence, recounted how a police officer tried to make her feel bad for reporting her case. She said that the officer taking her statement told her that, if she reported her husband, he would lose his job. “This made me feel very guilty,” she said.<sup>151</sup>

“Nita” also recounted how she stayed at the police station for four hours and felt ridiculed by the police officers. She described to Amnesty International how police officers came in and out of the interviewing room, interrupting her while she was giving her statement, and forcing her to repeat her traumatic experiences multiple times. At one point, a female police officer tried to diminish and normalize the crimes “Nita” had been subjected to by her husband, saying: “Don’t make such a big deal out of this. My husband does the same to me. All men are like this.” The same officer told her later: “Don’t you dare go back to him and then come back to us for help, like some of you are doing.” After this experience, “Nita” told Amnesty International that she would not call the police again if something were to happen to her.<sup>152</sup>

Five women interviewed who had previously reported violence said that the police show a great deal of impatience and often blame them for the violence they suffer.<sup>153</sup> “They [the police] are usually very impatient – especially if they are called multiple times,” “Maja” from North Mitrovica told Amnesty International. “Maja” was forced to call the police repeatedly to enforce a court child custody ruling because her former husband frequently failed to return the child after spending time with him. “When I call them to report my husband, they are annoyed with me. They treat me as if this is my fault, not his.”<sup>154</sup>

Women from Roma, Ashkali and Egyptian communities face additional prejudice and discriminatory attitudes based on their ethnicity. Qendresa Ademi is a member of the Municipal Assembly of Fushë Kosova, told Amnesty International that when Roma, Ashkali and Egyptian women report cases to the police they are often met with prejudicial comments and blaming attitudes based on pre-existing negative stereotypes such as: “You people are used to this kind of behaviour. You keep being violent to each other. Why can’t you just behave?” Qendresa Ademi emphasized that such comments increase the level of distrust in the police and contribute to under-reporting.<sup>155</sup>

“Gresa B.”, a Kosovo-Egyptian woman from Gjakova, recounted how she decided to give her husband another chance after the court gave him a one-year suspended sentence for domestic violence. “He promised to the court never to lay a finger on me again,” she said. Nevertheless, her husband resumed his violence against her when the suspended sentence expired. She recalled:

“I went to the police, but they didn’t really take me seriously because I forgave him once before. They said: ‘You forgave him, there is nothing we can do!’”<sup>156</sup>

## 4.2 POLICE OFFICERS DIMINISH SURVIVORS’ EXPERIENCES AND TESTIMONIES OF VIOLENCE

Amnesty International research revealed that police officers often minimized the seriousness of psychological and other abuse and did not take the harm victims reported being inflicted on them seriously or as credible unless they had visible injuries or other physical signs of violence.<sup>157</sup> Not only would police deny the harm inflicted, but would go further, to make comments about such coercive control behaviours as being normal rather than criminal. For example, “Maja” from North Mitrovica recounted how police ridiculed her when she reported her husband for psychological and economic abuse. “They told me there is no such thing [as economic abuse]. They also said that my husband had the right to deny me financial support because he was the one working and making money in the family.”<sup>158</sup>

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<sup>150</sup> Interview with “Diella” (name changed for anonymity), September 2022.

<sup>151</sup> Interview with “Nita”, (name changed for anonymity) September 2022.

<sup>152</sup> Interview with “Nita”, (name changed for anonymity) September 2022.

<sup>153</sup> Interviews with “Diella”, “Edona”, “Gresa B”, “Nita”, “Maja”, (names changed for anonymity), June-October 2022.

<sup>154</sup> Interview with “Maja” (name changed for anonymity), September 2022.

<sup>155</sup> Amnesty International, Interview with Qendresa Ademi, October 2022.

<sup>156</sup> Amnesty International, Interview with “Gresa B.” (name changed for anonymity), August 2022.

<sup>157</sup> Amnesty International, Interviews with survivors “Diella”, “Edona”, “Gresa B”, “Maja”, “Nita”, “Mimoza” and “Diana”, August-October 2022. Interview with Arrita Reznici, Kosovo Law Institute, June 2022.

<sup>158</sup> Interview with “Maja” (name changed for anonymity), September 2022.

Other survivors similarly reported that police officers took them seriously only after seeing bruises on their bodies. “Diana” from Pristina suffered repeated violence by her former husband and her mother-in-law. On one occasion in 2017 when she went to the police in fear that her husband would kill her, the police officers questioned her character and asked if she was having an affair. “I started yelling at the police, and rolled up my sleeves to show them bruises on my arms and I asked them: ‘Do you want to wait and pick up my dead body after he kills me?’” “Diana” said that the police officers changed their attitude as soon as they saw the injuries. They called paramedics who immediately performed a medical examination.<sup>159</sup>

“Diella’s” from Pristina had multiple interactions with the police. She described how, when she had visible physical injuries on her head, face and arms, police officers were very supportive and provided her with information, including about the risks of her situation. They also called paramedics who arrived immediately, and she received a medical report that documented her injuries.<sup>160</sup>

However, on other occasions “Diella’s” interactions with the police were very different. On one occasion she called the police while locked in her bathroom to avoid her husband’s violence. She recalled how the officer who arrived at the apartment appeared disinterested at first. “Diella” recounted how he told her: “Lady, why are you calling us and causing problems when you should solve these problems yourself? Don’t call the police for everything.” Yet, according to “Diella”, when he noticed marks on her neck and she told him that she had bruises all over her body, the police officer took her husband to the police station.<sup>161</sup>

Fitim Gashi, an attorney who has been representing survivors in domestic violence cases for almost a decade, said that many police officers believe that only physical violence can be classified as violence. “Often the first question they ask victims is ‘Did he beat you? Do you have the signs of injury?’... There are cases where, if the victim has no injuries, they say to them ‘Come now, he didn’t do anything to you. Why are you reporting him? He is your husband!’”<sup>162</sup>

“Nita”, who also had a very negative experience with the police when she reported her husband without displaying any physical injuries said: “Police officers should be trained on how to interview domestic violence survivors and be informed about the different forms of violence, particularly psychological violence... Police officers should have a softer approach and not a threatening and rigid one. They should not make you feel threatened or make you feel worthless, when you try your best to explain what happened and they come to you with their prejudicial opinions; this shouldn’t happen.”<sup>163</sup>

Demeaning and insensitive comments along with pressure on women not to report their abuser minimize victims’ accounts of violence, undermine recognition of the seriousness and specificity of the violence and prevent the full application of the provisions and measures intended to protect victims and offer them remedial action. The role of the police is crucial because the way in which police officers respond to victims often determines whether a victim decides to report domestic violence and feels confident to pursue further legal action if they so wish. Victims who are treated insensitively are generally more likely to decide not to continue with the process and to return to abusive situations.<sup>164</sup>

The Kosovo Police has created Domestic Violence Investigation Units staffed by both male and female police officers who are trained to deal with domestic violence cases.<sup>165</sup> Yet, in practice, many gaps remain. The 2022 CoE/GREVI0 report on Kosovo confirmed that many police stations still lack victim-friendly spaces to ensure privacy during interviews and that, in many cases, police try to minimize the seriousness of the reported violence.<sup>166</sup>

“Edona” from Drenas, who has reported numerous incidents of domestic violence to the authorities, said that the police and prosecution should communicate better with each other and that prosecutors should speak to victims directly: “Prosecutors should not only rely on the words of the police officers, because it can happen that they are bribed, or they have other reasons to be biased... I said to the prosecutor, ‘Get in your car and come see me, it shouldn’t cost you too much to come and meet me, or call me and ask me about the case, ... instead of calling the police?’”<sup>167</sup> The Ombudsman of Kosovo also stressed that prosecutors should play a more proactive role in the investigative phase of the process and not rely entirely on the police:

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<sup>159</sup> Interview with “Diana” (name changed for anonymity), September 2022.

<sup>160</sup> Interview with “Diella” (name changed for anonymity), September 2022.

<sup>161</sup> Interview with “Diella” (name changed for anonymity), September 2022.

<sup>162</sup> Amnesty International, Interview with Fitim Gashi, Attorney at law representing survivors of domestic violence through his cooperation with Kosova Women’s Network, 28 September 2022.

<sup>163</sup> Interview with “Nita” (name changed for anonymity), August 2022.

<sup>164</sup> GREVI0, *Baseline Evaluation Report Slovenia*, [rm.coe.int/first-baseline-report-on-slovenia/1680a4208b](https://rm.coe.int/first-baseline-report-on-slovenia/1680a4208b), para. 309.

<sup>165</sup> Amnesty International, Interview with Police Captain Arsim Shala, June 2022.

<sup>166</sup> CoE, *Assessment of the alignment of Kosovo’s laws, policies and other measures with the standards of the Istanbul Convention* (previously cited), p. 71.

<sup>167</sup> Interview with “Edona” (name changed for anonymity), August 2022.

“There is a necessity for the prosecution and the police to have better communication and prosecutors should be present more often when victims are questioned.”<sup>168</sup>

Sebahate Morina reported her husband for continuous physical and psychological violence in November 2019 in Gjilan.<sup>169</sup> Upon her request, the Basic Court of Gjilan issued a protection order for 12 months against her husband.<sup>170</sup> In January 2020, he pleaded guilty to domestic violence and assault and was fined 1,300 euros.<sup>171</sup> Four months after the protection order expired, Sebahate Morina’s daughter called the police to report that her father had assaulted Sebahate in front of her.<sup>172</sup> The next day, the police interviewed and then released Sebahate’s (now former) husband, Lulzim Sopi, in coordination with the State Prosecutor. The police also contacted Sebahate Morina and invited her to give another statement; however, according to the police, she refused and said she was not interested in pursuing the case.<sup>173</sup> Ten days later, on 14 March 2021, Sebahate Morina was shot and killed by her former husband, Lulzim Sopi who then took his own life.<sup>174</sup> In March 2023, the Constitutional Court of Kosovo found that the prosecution and police violated Sebahate Morina’s right to life because they failed to fulfil their positive obligations as guaranteed by the Constitution of Kosovo and the European Convention of Human Rights and obligations arising from the Istanbul Convention.<sup>175</sup> According to the Constitutional Court, the Police and State Prosecutor (i) failed to react immediately, (ii) did not make a genuine and immediate risk assessment, (iii) were aware or should have been aware of the immediate real danger to the life of Sebahate, given that her ex-husband had been previously convicted of domestic violence and yet (iv) they had not taken prevention measures to protect and prevent the deprivation from life of Sebahate. Women’s rights organizations demanded the resignation or discharge of the prosecutor and police officials responsible for the case.<sup>176</sup> In an official media announcement, the Office of the Prosecutor stated that it is conducting disciplinary proceedings against the prosecutor in charge.

As per international human rights law and standards, Kosovo has an obligation to ensure a confidential and gender-sensitive approach to cases of violence against women and domestic violence to avoid stigmatization of victims and secondary victimization during all legal proceedings, including during questioning, evidence collection and other procedures relating to the investigation.<sup>177</sup> Kosovo’s international obligations also include the prevention of any discrimination by state actors, including police officers, and the elimination of prejudice and gender discrimination based on harmful gender stereotypes.<sup>178</sup> Additionally, the Istanbul Convention obliges the authorities, including the police, to refrain from justifying any acts of violence, including domestic violence, with culture, custom, religion tradition or so-called “honour”, with a particular focus on claims that “the victim has transgressed cultural, religious, social or traditional norms or customs of appropriate behaviour.”<sup>179</sup>

Kosovo’s authorities must do more to ensure an appropriate response from the police and prosecution in relation to domestic violence. This would require a variety of measures, including targeted training of police officers and promoting survivor-centred and gender-sensitive approaches to interviewing victims and collecting testimonies. All police officers dealing with cases of intimate partner violence and domestic violence, in addition to the mandatory training, should receive regular training for continuous capacity building, designed in collaboration with organizations working with survivors. Among other things, training should cover domestic legal provisions and the role of relevant institutions in the state’s response to domestic violence and also addressing the root causes of violence, including debunking harmful gender stereotypes and prejudice which lead to gender-based violence against women and inadequate responses including those identified in this report. Training should also focus on the effects of trauma, understanding the power dynamics within intimate partner violence and eliminating factors that cause revictimization.<sup>180</sup> The effectiveness of protocols for dealing with cases of domestic violence and training programmes for law

<sup>168</sup> Amnesty International, Interview with Ombudsman Naim Qelaj, June 2022.

<sup>169</sup> Constitutional Court of the Republic of Kosovo, *Judgment in case no.KI 129/21*, 22 March 2023, [gjk-ks.org/wp-content/uploads/2023/03/ki\\_129\\_21\\_agj\\_ang.pdf](https://gjk-ks.org/wp-content/uploads/2023/03/ki_129_21_agj_ang.pdf), paras 18-19.

<sup>170</sup> *Judgment in case no.KI 129/21* (previously cited), para. 32.

<sup>171</sup> Basic Court of Gjilan, *Aktgjykim P.nr.1042/19*, 27 January 2021, [https://gjilan.gjyqesori-rks.org/wp-content/uploads/verdicts/GJ\\_P\\_1042\\_2019\\_SQ.pdf](https://gjilan.gjyqesori-rks.org/wp-content/uploads/verdicts/GJ_P_1042_2019_SQ.pdf)

<sup>172</sup> *Judgment in case no.KI 129/21* (previously cited), paras 37-39.

<sup>173</sup> *Judgment in case no.KI 129/21* (previously cited), para. 42.

<sup>174</sup> *Judgment in case no.KI 129/21* (previously cited), para. 43.

<sup>175</sup> *Judgment in case no.KI 129/21* (previously cited), paras 236-239.

<sup>176</sup> Office of the Chief State Prosecutor of the Republic of Kosovo, *Njoftim për media nga Zyra e Kryeprokurorit të Shtetit*, 5 April 2023,

<sup>177</sup> CEDAWCommittee, General Recommendation No.33 on Women’s Access to Justice, UN Doc. CEDAW/C/GC/33\_2015, para. 51(g).

<sup>178</sup> CEDAW, Article 5; ICCPR, Articles 3 & 26.

<sup>179</sup> Istanbul Convention (previously cited), Article 46.

<sup>180</sup> CEDAW Committee, General Recommendation No.35, (previously cited), para. (ii).

enforcement officers should be monitored, reviewed and changed accordingly through effective cooperation between all relevant agencies, institutions and organizations working with survivors of domestic violence<sup>181</sup><sup>182</sup>

## 4.3 INSTITUTIONAL NEGLECT OF LGBTI SURVIVORS

According to LGBTI organizations, many LGBTI people in Kosovo are exposed to domestic violence from their birth families because of their sexual orientation or gender identity and expression, and the issue is particularly prevalent in rural areas. Domestic violence perpetrated against LGBTI people often starts at a young age, typically after coming out or when their sexual orientation or gender identity becomes more noticeable.<sup>183</sup> As well as experiencing psychological and physical violence from family members, organizations reported that adult LGBTI individuals in Kosovo are also subjected to forced marriages.<sup>184</sup>

Several activists and other experts told Amnesty International that, during the Covid-19 pandemic, cases of domestic violence against LGBTI people, including forced marriages, increased, particularly in rural areas and smaller towns in Kosovo.<sup>185</sup> Many LGBTI people who had lived independently but lost their jobs during the pandemic were forced to turn to their families for financial support or move back in with them. “LGBTI people became more economically dependent on their families during the pandemic, so they started feeling indebted to them, which opened the way for their families to pressure them to get married to someone they didn’t want to,” said Lendi Mustafa, a prominent LGBTI activist from Kosovo.<sup>186</sup>

“When you listen to the stories of LGBTI people from Kosovo, they are hard to believe because they seem like stories from centuries ago. We have heard of extraordinary cases of torture, for example, hanging a person up and beating them with a whip in a hut. When you hear about a case like this in 2021, it is shocking,” said Esmeralda Kumaniku from the LGBTI shelter Streha in Tirana, Albania, that has been providing services to Kosovo-Albanian LGBTI survivors of domestic violence since 2016.<sup>187</sup>

Nevertheless, LGBTI people rarely report cases of violence because of distrust in institutions, fear of discrimination and fear of being outed.<sup>188</sup> According to official data from the Kosovo Police, in 2020 no cases of domestic violence against LGBTI people were reported,<sup>189</sup> despite an increase of cases registered by local NGOs working with LGBTI people.<sup>190</sup> The Kosovo Police registered just three cases of domestic violence against LGBTI persons in 2021 and two cases in 2022.<sup>191</sup>

Constitutional and legal safeguards in Kosovo offer protection from discrimination for LGBTI people in line with international human rights law and standards. The Law on Protection from Discrimination prohibits discrimination on the basis of sexual orientation or gender identity in all areas of life.<sup>192</sup> Additionally, crimes committed on the grounds of a person’s sexual orientation or gender identity carry heavier sentences.<sup>193</sup>

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<sup>182</sup> GREVIO, *Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence*, 2021, [rm.coe.int/ic-and-explanatory-report/16808d24c6](https://rm.coe.int/ic-and-explanatory-report/16808d24c6), para. 99; Istanbul Convention, Article 7. See also: European Institute for Gender Equality, *Risk assessment and risk management by police, Principle 1: Adopting a gender-specific approach*, [eige.europa.eu/gender-based-violence/risk-assessment-risk-management/principle-1-adopting-gender-specific-approach](https://eige.europa.eu/gender-based-violence/risk-assessment-risk-management/principle-1-adopting-gender-specific-approach)

<sup>183</sup> Amnesty International, Interview with LGBTI survivors of domestic violence Adi, Learta and Pati (not their real names), December 2022; Interviews with representatives of LGBTI organizations Center for Equality and Liberty, Center for Social Group Development, Streha shelter house in Albania, and local LGBTI activist Lendi Mustafa, September-December 2022.

<sup>184</sup> Amnesty International, Interviews with representatives of LGBTI organizations Center for Equality and Liberty, Center for Social Group Development, Streha, and Lendi Mustafa, September-December 2022.

<sup>185</sup> Amnesty International, Interviews with representatives of LGBTI organizations Center for Equality and Liberty, Center for Social Group Development, Streha, and Lendi Mustafa, September to December 2022.

<sup>186</sup> Amnesty International, Interview with Lendi Mustafa, December 2022.

<sup>187</sup> Amnesty International, Online interview with Esmeralda Kumaniku, October 2022. Since 2016, Streha has provided residential services to 11 LGBTI survivors of domestic violence from Kosovo. Annually, they provide distance support services for 30 LGBTI people from Kosovo who live in Albania. Such services include psychological counseling, legal aid, food packages, subvention for rent payment, intermediation with employers, among others.

<sup>188</sup> Amnesty International, Interviews with representatives of LGBTI organizations Center for Equality and Liberty, Center for Social Group Development, Streha, and Lendi Mustafa, September to December 2022; Interview with Andi (not his real name), a gay man and survivor of domestic violence, October 2022.

<sup>189</sup> Amnesty International, Response of the Kosovo Police to an official request for information, 21 March 2023.

<sup>190</sup> Amnesty International, Interview with Blert Morina, executive director of the Center for Equality and Liberty, December 2022. Amnesty International, Interview with Lendi Mustafa, December 2022.

<sup>191</sup> Amnesty International, Response of the Kosovo Police to an official request for information, 21 March 2023.

<sup>192</sup> Constitution of Kosovo, Article 24; Law No.05/L-021 on Protection from Discrimination, Articles 1-3.

<sup>193</sup> Criminal Code No.06/L-074, Article 70(2.12).

Important progress was also made by the Kosovo Police in establishing a unit for crimes against LGBTI people in Pristina. Organizations working on LGBTI rights report positive developments in the level of collaboration with the Kosovo Police, particularly in ensuring protection during Pristina Pride Week,<sup>194</sup> which has been held annually since 2017.<sup>195</sup> Nevertheless, Amnesty International's research found persistent failures by the police to protect LGBTI people from domestic violence, including failing to treat their reports seriously, at times trying to justify the violence they experienced and showing a lack of basic understanding of LGBTI rights.<sup>196</sup>

Lendi Mustafa told Amnesty International: "LGBTI people have a lot of distrust towards the police and prosecution. Those who want to report their cases ask us to escort them or have a lawyer present because they do not feel safe reporting cases on their own. LGBTI people still remember the widely circulated video recording of police officers ill-treating an LGBTI person in the police station."<sup>197</sup> Lendi Mustafa was referring to a video published in the media in 2018 which showed police officers ridiculing two men inside a police station, asking them repeatedly if they had sex with each other and asking one of them if he was gay. Five police officers were suspended for police misconduct because of the incident but the footage further undermined the already low trust in law enforcement by LGBTI people.<sup>198</sup>

Moreover, this did not appear to be an isolated incident. Amnesty International spoke to a survivor of domestic violence who had a similar experience. "Pati", an Albanian trans woman, was brought to a police station in 2021 after her father physically assaulted her and himself called the police telling them that he planned to "kick his son out because he is gay". According to "Pati", the police questioned her for four hours about her sexual orientation and told her that if she did not admit to being gay, they would bring in forensic doctors to "verify her sexual orientation". Even though she had been assaulted, she reported being questioned as a suspect. "Pati" was so traumatised by the experience she felt it was risky and pointless to report the incident to the same authority that had unlawfully questioned her for four hours at the behest of her abusive father. She also suspected that the police officers knew her father.<sup>199</sup>

Alongside the risk of discrimination and revictimization, LGBTI people fear that when they report domestic violence they might be outed or be treated with bias. In small towns and rural areas in particular it is common that people know each other's families. Many LGBTI people fear that the police will not keep information about their sexual orientation or gender identity confidential.<sup>200</sup> A prominent LGBTI activist told Amnesty International that some even fear that the police might share their domestic violence report and personal information with tabloid media.<sup>201</sup>

The law requires victims of criminal offences to report cases at the police station closest to where the violence occurred or where they live,<sup>202</sup> further discouraging LGBTI people from reporting their cases for fear of being recognized.<sup>203</sup>

According to Arbër Nuhiu, director of the Centre for Social Group Development, a leading LGBTI organization in Kosovo: "LGBTI people would rather put up with the violence than report the abuse. They often say: 'no one can guarantee me that no one will find out about me'."<sup>204</sup>

"Andi", a gay man interviewed by Amnesty International, said he had never reported the repeated physical and psychological violence he experienced at the hands of his father because he feared the police would be biased against him since his father knew many police officers in the city: "I felt so powerless to report him, not only because I was young but also because everyone knew each other, and I knew everyone respected

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<sup>194</sup> See Pristina Pride, available at: [prishtinapride.org/en/about-us](https://prishtinapride.org/en/about-us)

<sup>195</sup> Amnesty International, Interview with Blert Morina, December 2022; Interview with Lendi Mustafa, December 2022; Interview with Arbër Nuhiu and Rajmonda Sylbije, December 2022; Prishtina Insight, "Kosovo makes history with first ever pride parade", October 2017, [prishtinainsight.com/first-pride-parade-mag/](https://prishtinainsight.com/first-pride-parade-mag/)

<sup>196</sup> Amnesty International, Interview with Pati (name changed for anonymity), trans woman survivor of domestic violence, October 2022; Interview with Learta (name changed for anonymity), trans woman survivor of domestic violence, November 2022; Interview with Lendi Mustafa, November 2022; Online interview with Gresa Rrahmani, Legal Consultant at CEL, May 2022.

<sup>197</sup> Amnesty International, Interview with Lendi Mustafa, November 2022.

<sup>198</sup> Prishtina Insight, "Kosovo police officers suspended after homophobic mistreatment", 19 November 2018, [prishtinainsight.com/kosovo-police-officers-suspended-after-homophobic-mistreatment/](https://prishtinainsight.com/kosovo-police-officers-suspended-after-homophobic-mistreatment/)

<sup>199</sup> Interview with "Pati" (name changed for anonymity), October 2022.

<sup>200</sup> Amnesty International, Interviews with representatives of LGBTI organizations Center for Equality and Liberty, Center for Social Group Development, and Lendi Mustafa, September-December 2022; Interview with Andi (not his real name), October 2022.

<sup>201</sup> Amnesty International, Interview with Lendi Mustafa, December 2022.

<sup>202</sup> Law No.04/L-076 on the Police, [gzk.rks-gov.net/ActDetail.aspx?ActID=2806](https://gzk.rks-gov.net/ActDetail.aspx?ActID=2806), Article 32(2). According to this article, the territorial jurisdiction of each police station is confined within the borders of the municipalities where they are located.

<sup>203</sup> Amnesty International, Interviews with representatives of LGBTI organizations Center for Equality and Liberty, Center for Social Group Development, and Lendi Mustafa, September to December 2022.

<sup>204</sup> Amnesty International, Interview with Arbër Nuhiu, December 2022.

my father so, I thought to myself, how much would my report be worth?... I went to the police station, [and while waiting to make my] report and I saw three or four of my father's closest friends, so I just left."<sup>205</sup>

As per international human rights law and standards, Kosovo has an obligation to ensure that everyone, regardless of sexual orientation, gender identity, gender expression or sex characteristics, can exercise their right to state protection from violence, discrimination and other harm, whether the harm is committed by state officials or by any individual or group.<sup>206</sup> Article 4.3 of the Istanbul Convention includes an explicit anti-discrimination provision to this end. The Kosovo authorities must include an anti-discrimination perspective and information about LGBTI people's rights in the initial training and continuous capacity-building of the police, to ensure that cases of domestic violence and gender-based violence are handled sensitively. The police must ensure that anti-discrimination provisions become an integral part of the standard operating procedures and that there are friendly and accessible complaint mechanisms for reporting mishandling of cases by the police.

"Leartha", a trans woman from the Ashkali ethnic minority, told Amnesty International that her mother started abusing her psychologically and physically when "Leartha" was 14 and began accepting herself as transgender. She reported her mother for the first time when she was 17, after suffering three years of abuse. "The police told me: 'go home, there is nothing we can do for you! You should not come for such small things to the police. Such matters should be settled at home'... They didn't take me seriously and I was afraid for my life. They were telling me to go home, but my mother didn't want me at home. I had no other option. I had no place to go to, so I went back home."<sup>207</sup>

According to the police report, "Leartha" told the police that her mother was physically violent and threw her out of the house because she was "behaving in a feminine way". Amnesty International had access to the police statement and found numerous gaps in how the police handled the case.<sup>208</sup> The statements taken from "Leartha" and her mother indicate that the police focused on "Leartha's" behaviour, rather than the violence she experienced from her mother. "Leartha's" mother was not questioned as a suspect but as a witness.

Although "Leartha" was 17 years old and so legally a minor at the time, the Center for Social Work was not present when she reported the case to the police. The victim advocate was present but, according to "Leartha", he did not inform her of the possibility of obtaining a protection order, going to a shelter or any of the other services available to survivors of domestic abuse.

"Leartha" reported her mother to the police a second time several months later after her mother tried to hit her with an axe.<sup>209</sup> That time, "Leartha" was represented and escorted by a lawyer hired from the Centre for Equality and Liberty (CEL). She believes that the police and other institutions treated her case seriously at that stage because she had legal representation. Ultimately, the court found her mother guilty of assault and gave her a suspended sentence of one year's imprisonment.<sup>210</sup>

As "Leartha's" case illustrates, police officers' failure to take domestic violence against trans person seriously can put survivors at heightened risk of further abuse.

<sup>205</sup> Interview with "Andi" (name changed for anonymity), October 2022.

<sup>206</sup> See International Commission of Jurists (ICJ), *The Yogyakarta Principles Plus 10*, 10 November 2017, principle 30, [yogyakartaprinciples.org/wp-content/uploads/2017/11/A5\\_yogyakartaWEB-2.pdf](https://www.yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf), p. 8.

<sup>207</sup> Interview with "Leartha" (name changed for anonymity), December 2022.

<sup>208</sup> Kosovo Police, Regional Police Directorate, Police Report 2018-OP-0124, 5 February 2018.

<sup>209</sup> Basic Court, *Judgment P.nr.504/19*, 10 October 2019, made available to Amnesty International.

<sup>210</sup> Basic Court, *Judgment P.nr.504/19* (previously cited).

# 5. LACK OF MONITORING AND ENFORCEMENT OF PROTECTION ORDERS

All eight women interviewed who had requested protection orders received them within the legally mandated timeframe and found protection orders to be helpful overall and reported feeling positively surprised about how fast they were issued.<sup>211</sup> This was also the experience of the interviewees who nearly all commented that the initial issuing aspect of the process generally functions effectively and according to the law. However, issues remain in terms of the types of measures put in place and their implementation, monitoring and extension, leaving survivors at risk.<sup>212</sup>

NGOs working with survivors claimed that the issuance of protection orders within the legal timeframe, a positive development, was a result of relentless campaigning by women's rights organizations and a 2013 Constitutional Court judgment following the murder of Diana Kastrati by her abusive partner in Pristina in 2010. Kastrati had requested a protection order against her abusive partner but did not receive it on time and was murdered by him shortly after.<sup>213</sup>

Notwithstanding some limited progress, practitioners interviewed for this report highlighted several problems with the types of protection orders issued and their implementation. Specifically, they noted that courts rarely order the perpetrator to leave the shared residence, forcing the survivor to leave the house, often accompanied by her children.<sup>214</sup> In some cases, courts order the perpetrator and victim to share the same residence, designating a 5m distance between them, which is very difficult to implement and may lead to further violence.<sup>215</sup> Adelina Berisha from the Kosova Women's Network, which monitors court cases of protection orders, noted that courts commonly issue a protection order prohibiting the perpetrator from going near the victim, but rarely issue other measures, including an ordering the perpetrator to pay rent for the survivor, pay alimony or other possible protection measures.<sup>216</sup> Furthermore, the rare cases of protection orders that require perpetrators to leave the residence are difficult to implement in the context of an often-multigenerational family arrangements in Kosovo and are not actively enforced by the authorities.<sup>217</sup> Many women in Kosovo live with their husband's extended family, and the shared residence is typically registered in the husband's name or that of his family. In such situations, protection orders bar perpetrators from parts

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<sup>211</sup> Interviews with "Edona", "Gresa A", "Mimoza", "Kaltrina", "Ana", "Diana", "Diella", "Nita" (not their real names), August-October 2022.

<sup>212</sup> Amnesty International, Interview with Fitim Gashi, September 2022; Interview with Adelina Berisha, programme manager at Kosova Women's Network, 1 June 2022; Interview with Burhan Maxhuni, victim advocate in Mitrovica, September 2022; Interviews with survivors, June-December 2022.

<sup>213</sup> Amnesty International, Interview with Adelina Berisha, 1 June 2022; Constitutional Court of Kosovo, *Judgment KI41/12: Gëzim and Makfire Kastrati v. Municipal Court in Prishtina and Kosovo Judicial Council*, 26 February 2013, [gjk-ks.org/en/decision/gzim-dhe-makfire-kastrati-kundr-gjykats-komunale-n-prishtin-dhe-kshillit-gjyqsor-t-kosovs/](http://gjk-ks.org/en/decision/gzim-dhe-makfire-kastrati-kundr-gjykats-komunale-n-prishtin-dhe-kshillit-gjyqsor-t-kosovs/)

<sup>214</sup> Amnesty International, Interview with Adelina Berisha, June 2022; Interview with Fitim Gashi, September 2022.

<sup>215</sup> Amnesty International, Interview with Fitim Gashi, September 2022. See also: CoE, *Assessment of the alignment of Kosovo's laws, policies and other measures with the standards of the Istanbul Convention* (previously cited), para. 275.

<sup>216</sup> Amnesty International, Interview with Adelina Berisha, 1 June 2022. See also: CoE, *Assessment of the alignment of Kosovo's laws, policies and other measures with the standards of the Istanbul Convention* (previously cited), para. 275.

<sup>217</sup> Amnesty International, Interview with Fitim Gashi, September 2022; Interview with Adelina Berisha, June 2022. Interview with Arrita Rezniciq and Ehat Miftaraj, June 2022.

of the residence, rather than removing them altogether.<sup>218</sup> In its report on Kosovo, GREVIO expressed concern over this practice.<sup>219</sup>

According to international human rights standards, in cases of immediate danger, the property or housing rights of abusive partners should not be considered when drawing up emergency protection orders and cannot prevail over the rights of the victim to life and to physical and mental integrity.<sup>220</sup>

Interviewees also reported issues with extending protection orders, noting that judges usually ask for new evidence of violence in order to extend protection orders.<sup>221</sup>

Courts may issue protection orders and emergency protection orders for a period of up to 12 months and extend these to a maximum of 24 months.<sup>222</sup> "Kaltrina" reported her husband to the police in 2019 after suffering years of psychological, physical and economic violence. The victim advocate filed a request on her behalf for a protection order, which the court granted for a period of six months. She went to the Victim Advocacy and Assistance Office and asked them to file a request for an extension after the initial six-month protection order expired. "The victim advocate asked me, 'did you receive any threat during this time, you must have a threat or something else to have a legal basis for an extension'... I was in such a terrible situation, I did not need to speak, they could have just looked at the statement I gave and that should have been enough for them to be terrified by what I experienced".<sup>223</sup> The victim advocate did not request an extension for the protection order, placing "Kaltrina" at risk and heightening her sense of fear and uncertainty.

A long-standing issue regarding the monitoring of protection orders is the lack of implementation of the Law on Electronic Supervision of Persons whose Movement is Limited by a Court Decision, enacted in 2015, which establishes the legal basis for courts to monitor protection orders through GPS monitoring and electronic bracelets.<sup>224</sup> An Ombudsperson assessed that the lack of implementation of this law was incompatible with state obligations to protect the right to life of victims of domestic violence.<sup>225</sup> The government took action to implement the long-adapted law after the murder of Hamide Magashi and her unborn baby in November 2022.<sup>226</sup> A protection order was in place when she was shot dead by her ex-husband, Sokol Halili, in the courtyard of Pristina's Gynaecology Clinic where she was due to give birth the next day.<sup>227</sup> Her murder sparked criticism of the government from NGOs for not implementing the Law on Electronic Supervision of Persons.<sup>228</sup> NGOs assessed that the amount allocated in April 2023 to fund the full and effective implementation of the law – 600,000 euros – was insufficient.<sup>229</sup>

Authorities in Kosovo, including the police, prosecution, victim advocates and courts, should ensure that survivors are properly informed of the wide range of measures available to them through protection orders, including the temporary measures of paying rent and alimony. Courts should consider issuing more diverse

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<sup>218</sup> Amnesty International, Interview with Fitim Gashi, September 2022; Interview with Burhan Maxhuni, victim advocate from Mitrovica, September 2022.

<sup>219</sup> CoE, *Assessment of the alignment of Kosovo's laws, policies and other measures with the standards of the Istanbul Convention* (previously cited), para. 267.

<sup>220</sup> CEDAW, *Gökçe and Yildirim v. Austria*, 2005, UN Doc. CEDAW/C/39/D/6/2005, [tinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2F39%2FD%2F6%2F2005&Lang=en](https://tinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2F39%2FD%2F6%2F2005&Lang=en). See also: CoE, *A collection of papers on the Council of Europe Convention on preventing and combating violence against women and domestic violence*, [rm.coe.int/article-52-convention-istanbul-english-version/168073cae6](https://rm.coe.int/article-52-convention-istanbul-english-version/168073cae6), p. 20. (last accessed on 24 July 2023)

<sup>221</sup> Amnesty International, Interview Burhan Maxhuni, September 2023; Interview with "Kaltrina" (name changed for anonymity), August 2022.

<sup>222</sup> Law on protection against domestic violence, Article 18(2).

<sup>223</sup> Interview with "Kaltrina" (name changed for anonymity), August 2022.

<sup>224</sup> Law on Electronic Supervision of Persons whose Movement is Limited by a Court Decision, 2015, [gzk.rks.gov.net/ActDetail.aspx?ActID=10877](https://gzk.rks.gov.net/ActDetail.aspx?ActID=10877). FOL Movement, "Electronic tags: focus on prevention of domestic violence cases", December 2021, [levizjafol.org/wp-content/uploads/2021/12/Pajisiet-elektronike-fokusi-n%C3%AB-parandalimin-e-rasteve-t%C3%AB-dhun%C3%AB-n%C3%AB-familje.pdf](https://levizjafol.org/wp-content/uploads/2021/12/Pajisiet-elektronike-fokusi-n%C3%AB-parandalimin-e-rasteve-t%C3%AB-dhun%C3%AB-n%C3%AB-familje.pdf); IKD, "Nuk gjen zbatim Ligji për Mbikëqyrjen Elektronike të personave, të cilëve u kufizohet lëvizja me vendim të gjykatës", 14 September 2022, [betimiperdrejtesi.com/nuk-gjen-zbatim-ligji-per-mbikqyrjen-elektronike-te-personave-te-cileve-u-kufizohet-levizja-me-vendim-te-gjykatës/](https://betimiperdrejtesi.com/nuk-gjen-zbatim-ligji-per-mbikqyrjen-elektronike-te-personave-te-cileve-u-kufizohet-levizja-me-vendim-te-gjykatës/) (last accessed on 24 July 2023)

<sup>225</sup> Ombudsperson Institution, *Report Ex-Officio Case No.621/2018*, 8 March 2021, [oik-rks.org/wp-content/uploads/2021/03/Raport-Ex-Officio-621-2018.pdf](https://oik-rks.org/wp-content/uploads/2021/03/Raport-Ex-Officio-621-2018.pdf).

<sup>226</sup> Kallxo, *Vrasja e Hamide Magashit, kryeministri kërkon dorëheqjen e gjithë 'zinxhirit të papërgjegjës'*, 1 December 2022, [kallxo.com/lajm/vrasja-e-hamide-magashit-kryeministri-kërkon-dorëheqjen-e-gjithë-zinxhirit-te-papërgjegjës/](https://kallxo.com/lajm/vrasja-e-hamide-magashit-kryeministri-kërkon-dorëheqjen-e-gjithë-zinxhirit-te-papërgjegjës/); Koha, "Ligji për mbikëqyrje elektronike qe shtatë vjet s'gjeti zbatim, Policia hesht", 1 December 2022, [koha.net/arberi/355164/ligji-per-mbikqyrje-elektronike-qe-shtate-vjet-sgjeti-zbatim-policia-hesht/](https://koha.net/arberi/355164/ligji-per-mbikqyrje-elektronike-qe-shtate-vjet-sgjeti-zbatim-policia-hesht/) (last accessed on 30 July 2023).

<sup>227</sup> Balkan Insight, "Suspected murderer of pregnant woman in Kosovo commits suicide", 2 December 2022, [balkaninsight.com/2022/12/02/suspected-murderer-of-pregnant-woman-in-kosovo-commits-suicide/](https://balkaninsight.com/2022/12/02/suspected-murderer-of-pregnant-woman-in-kosovo-commits-suicide/); Basic Court of Ferizaj, Press release, 1 December 2022, [ferizaj.gjyqesori-rks.org/2022/12/01/njoftim-per-media-2/](https://ferizaj.gjyqesori-rks.org/2022/12/01/njoftim-per-media-2/) (last accessed on 24 July 2023).

<sup>228</sup> Koha, "Ligji për mbikëqyrje elektronike qe shtatë vjet s'gjeti zbatim, Policia hesht", 1 December 2022, [koha.net/arberi/355164/ligji-per-mbikqyrje-elektronike-qe-shtate-vjet-sgjeti-zbatim-policia-hesht/](https://koha.net/arberi/355164/ligji-per-mbikqyrje-elektronike-qe-shtate-vjet-sgjeti-zbatim-policia-hesht/) (last accessed on 24 July 2023).

<sup>229</sup> Koha, "Ligji për mbikëqyrje elektronike qe shtatë vjet s'gjeti zbatim, Policia hesht", 1 December 2022, (previously cited).



protection measures to ensure immediate protection and safety such as ordering the perpetrator to pay rent for the survivor, pay alimony, ordering the perpetrator to allow the survivor to use the common residence, or other possible protection measures, as well as taking measures to ensure the wellbeing of survivors of domestic violence.

Furthermore, protection orders should not order the perpetrator to share the residence with the victim and should instead ensure that the perpetrators do not remain in the proximity of the victim.

Authorities should monitor protection orders vigorously and ensure that they are enforced, including through the implementation and adequate funding of the Law on Electronic Supervision of Persons Whose Movement is Limited by a Court Decision.

# 6. UNDER-RESOURCED SHELTERS UNABLE TO MEET SURVIVORS' NEEDS

Shelters are essential to help survivors leave abusive situations. Shelters usually provide survivors with a safe place to stay and well as food, clothes, psychosocial support including individual counselling sessions, transportation to the courthouse, and in some cases, vocational training. There are currently eight specialized shelters run by NGOs in Kosovo, each with average capacity to provide shelter and a 24-hour support to 15-20 women survivors of domestic violence and their children; and two shelters for children, including for survivors of domestic violence.<sup>230</sup>

In addition to the licensed shelters mentioned above, there is a shelter in Zubin Potok, in northern Kosovo, which serves four municipalities with Serb majority population: North Mitrovica, Leposavić, Zvečan and Zubin Potok and is funded from the municipal budget and foreign donations.<sup>231</sup> The shelter is not licensed by the Ministry of Finance, Transfers and Labour, in part due to a failure by the Kosovo authorities to recognize staff members' diplomas and qualifications obtained in Serbia.<sup>232</sup> A shelter representative from Novo Brdo, another municipality with Serb majority which runs a shelter licensed by the Ministry of Finance, Transfer and Labour, also highlighted difficulties in hiring and retaining staff due to the lack of agreement on recognising degrees received in Serbia.<sup>233</sup>

On the other hand, there is no specialized shelter for LGBTI survivors of domestic violence. The existing shelters for women often lack capacity and expertise to offer services for lesbian, bisexual, transgender and intersex women, and they do not accept gay or trans men.

## 6.1 CHALLENGES IN ACCESSING SHELTERS

Women survivors of domestic violence and sexual violence can usually stay at a shelter for up to six months. In some exceptional cases they may be permitted to stay longer. Representatives of the shelter in Gjakova noted a couple of cases of survivors who stayed for two years.<sup>234</sup>

Access to shelters, however, tends to be available only to survivors of domestic violence who report their case to the police.<sup>235</sup> This condition presents a major barrier for survivors who may not be ready or willing to

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<sup>230</sup> CoE, *Assessment of the alignment of Kosovo's laws, policies and other measures with the standards of the Istanbul Convention* (previously cited), p. 48. Interviews with Zana Hamiti, Erëblina Dinarama, Ardita Balaj, Jubilea Kabashi, Fidane Hyseni, May-October 2022.

<sup>231</sup> Amnesty International, Interview with Adriana Hodzic, September 2022. CoE, *Assessment of the alignment of Kosovo's laws, policies and other measures with the standards of the Istanbul Convention* (previously cited), paras 141-142.

<sup>232</sup> Kosovo Women's Network, "From laws to action: monitoring the institutional response to gender-based violence in Kosovo", 2021, [womensnetwork.org/wp-content/uploads/2021/05/KWN-GBV-Report-ENG-Final-2.pdf](https://womensnetwork.org/wp-content/uploads/2021/05/KWN-GBV-Report-ENG-Final-2.pdf)

<sup>233</sup> Amnesty International, Interview with Vesna Stajić, September 2022.

<sup>234</sup> Amnesty International, Interview with Erëblina Dinarama, director of the Safe House in Gjakova, June 2022.

<sup>235</sup> Amnesty International, Interviews with Erëblina Dinarama, director of the Safe House in Gjakova, Zana Hamiti, director of the shelter house in Pristina, Fidane Hyseni, director of the shelter house in Mitrovica (south), Ardita Balaj, director of the shelter house in Peja, and Jubilea Kabashi, director of the shelter house in Prizren, June-October 2022.

report to the police for a variety of reasons and also may add a further dangerous delay to victims seeking safety. According to the director of the Centre for Social Work at the Municipality of Pristina, it is usually elderly women who have experienced violence for long periods of time who hesitate to report to the police, mostly because they feel ashamed for not having reported the abuse.<sup>236</sup>

The shelter in Novo Brdo reported allowing survivors to stay at the shelter without reporting their cases to the police. According to Vesna Stajić, director of the shelter in Novo Brdo, women with higher education and professional women tend to be more hesitant to report their cases to the police because they feel embarrassed that they found themselves in an abusive situation. “Most of them ask how long they can stay without reporting their cases to the police, so we let them stay.”<sup>237</sup>

Under international human rights law and standards, states should provide access to comprehensive and integrated services without making it a condition that survivors of gender-based violence report their case to the police.<sup>238</sup> Specialized services should help survivors to make the best decision for their circumstances.<sup>239</sup> Setting a pre-condition of reporting a case to the police in order to access these services removes survivors’ agency and decision-making power and may exclude some survivors from being able to access the shelter. It is perhaps particularly concerning in a context where, as established in the earlier sections of this report, the police are reported as being reluctant to take the complaint, questioning the legitimacy of the victim’s complaint, belittling the abuse she is experiencing, or doubting her due to a lack of visible physical injury.

## 6.2 CUT OFF FROM THE WORLD: SHELTER RULES CAUSING STRONG SENSE OF ISOLATION

Some survivors of domestic violence staying at shelters reported to Amnesty International feeling a strong sense of isolation due to shelter rules. One form of domestic violence which survivors may have experienced prior to their stay is the use of coercive control, by which their abuser isolates them, restricting their freedom of movement and their contact to the outside world. The additional restrictions placed on survivors by shelters may compound this feeling of isolation.

Generally, shelters in Kosovo do not allow survivors to leave the shelter during their stay, citing security concerns.<sup>240</sup> Survivors may go out accompanied by the shelter staff and police to attend court proceedings or access healthcare facilities, and in some shelters, such as Gjakova, Prizren, Peja and Zubin Potok, they can go to work in cases of low risk.<sup>241</sup> However, even in these shelters, survivors who are not employed, are not able to leave and are practically confined to the shelter. Generally, survivors at the shelters in Pristina and Mitrovica are not allowed to leave for work or any other reason, except for medical needs or court proceedings, in order to protect the secret location of the shelter and survivors living there.<sup>242</sup>

Survivors are generally obliged to hand over their cell phones at the start of their stay. In these cases, they are typically permitted to speak with their families once or twice a week, and only in the presence of a staff member.<sup>243</sup>

Shelter officials justify this protocol as a safety measure to preserve the confidentiality of the location of the shelter and protect the safety of the survivors staying there.<sup>244</sup> While this may be a legitimate concern, the inability to frequently communicate with family and friends during times of distress and the strong sense of isolation forces some survivors to leave shelters before they are ready and often return to abusive situations.<sup>245</sup>

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<sup>236</sup> Amnesty International, Interview with Vehbi Mujku, director of the Centre for Social Work in the Municipality of Pristina, August 2022.

<sup>237</sup> Amnesty International, Interview with Vesna Stajić, September 2022.

<sup>238</sup> Istanbul Convention (previously cited), art. 18(4). UN Women, *Handbook for legislation on violence against women*, 2012, p.30, [unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2012/12/UNW\\_Legislation-Handbook%20pdf.pdf](https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2012/12/UNW_Legislation-Handbook%20pdf.pdf).

<sup>239</sup> CoE, “Combating violence against women: minimum standards for support services”, 2008, [coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF\(2007\)Study%20rev.en.pdf](https://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF(2007)Study%20rev.en.pdf), p. 10.

<sup>240</sup> Amnesty International, Interviews with Zana Hamiti, director of the Shelter in Pristina, Fidane Hyseni, director of the shelter in Mitrovica, Ardita Balaj, director of the shelter in Peja and Jubilea Kabashi, director of the Shelter in Prizren, June-October 2022.

<sup>241</sup> Amnesty International, Interviews with Erëblina Dinarama, Ardita Balaj, Jubilea Kabashi, Fidane Hyseni, June-October 2022; Interview with Adriana Hodžić, Deputy Mayor of North Mitrovica, September 2022; Interview with “Maja” (name changed for anonymity), survivor of domestic violence from North Mitrovica, September 2022.

<sup>242</sup> Amnesty International, Interviews with Zana Hamiti, May 2022, and Fidane Hyseni, August 2022.

<sup>243</sup> The shelters in Peja and Zubin Potok allow survivors to speak to their families as many times as they want. In the shelters in Pristina, Gjakova and Prizren, all calls to the outside world are monitored by shelter staff.

<sup>244</sup> Amnesty International, Interview with Zana Hamiti, May 2022.

<sup>245</sup> Amnesty International, Interview with “Edona” (name changed for anonymity), August 2022; Interview with Zana Hamiti, May 2022.

“Edona” from Drenas stayed at the shelter in Pristina with her three children but decided to leave after only 10 days because she and the children found the isolation unbearable. “I don’t understand why the shelter is closed like a prison. I told the people at the shelter that, maybe, it would have been better if I had killed my husband, because this here is like a prison. I wasn’t even free to speak to my parents, to have my own privacy and my children were also very distressed.”<sup>246</sup>

“Syzana”, who was staying at the shelter in Pristina, also found the isolation distressing. “Even during the lockdown in the pandemic, I couldn’t stand staying inside and would sometimes go visit my mother.” “Syzana”, along with other women, stated that she would have liked the opportunity to occasionally go outside: “At least once a week maybe someone could come pick us up so we could have a coffee outside.”<sup>247</sup>

This practice may contradict the Gender Equality Agency’s standard operating procedures, which state that victims staying at the shelters must be allowed to communicate with their family members and friends and that contact with family members must be monitored by shelter staff only in cases of high risk.<sup>248</sup> This means that shelters are obliged to apply the safety protocol on a case-by-case basis, rather than imposing a general rule to monitor all calls that survivors make to the outside world. Moreover, standard operating procedures do not limit the number of times victims are allowed to contact their families or friends.

The CoE has stated that “the security situation of each victim should be assessed, and an individual security plan should be drawn up on the basis of that assessment”.<sup>249</sup> Amnesty International urges shelters to conduct individual risk assessments which result in individualized security plans that allow those who do not have high risk cases to contact their families and friends more frequently and without shelter’s staff supervision.

## 6.3 PERSISTENT GAPS IN FINANCING OF SHELTERS

Shelters in Kosovo are almost exclusively operated by NGOs, making them dependent on often uncertain funding from the authorities and external donors. The Ministry of Finance, Transfers and Labour issues an annual open call to all organizations to apply for funding. Limited funding is also available from municipalities.<sup>250</sup>

Shelters have faced a persistent lack of adequate funding and systemic delays in allocation of funds, making their operations extremely precarious. Moreover, the government funding tends to be delayed, usually leaving the shelters without essential resources for the first three months of the year and undermining their ability to provide high quality, continuous services to survivors.

In 2018, the Ombudsperson Institution reported that shelters received only half of the budget needed to operate.<sup>251</sup> Due to the insufficient funding and delays in receiving government funds during 2017 and 2018, shelters had to temporarily close or turn away people needing protection.<sup>252</sup> This prompted the then government to allocate emergency funds for shelters;<sup>253</sup> however, a long-term, sustainable solution has yet to be found.

In 2022, shelters received no funding until April and, at the same time, the government decreased the annual budget for shelters without providing any justification although the shelters in Gjakova and Pristina received an increasing number of survivors seeking help.<sup>254</sup> The government granted emergency financial support for January and February 2023.<sup>255</sup> However, shelter staff are concerned that this is not a sustainable solution and problems with financing may reoccur in the future.<sup>256</sup> They report that the government does not

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<sup>246</sup> Interview with “Edona” (name changed for anonymity), August 2022.

<sup>247</sup> Interview with “Syzana” (name changed for anonymity), September 2022.

<sup>248</sup> Agency for Gender Equality, Standard Operating Procedures for Protection from Domestic Violence in Kosovo (previously cited), p. 47.

<sup>249</sup> Explanatory report of the Council of Europe Convention on preventing and combating violence against women and domestic violence, para. 134.

<sup>250</sup> Amnesty International, Interviews with Erëblina Dinarama, Zana Hamiti, Fidane Hyseni, Ardita Balaj and Jubilea Kabashi, June-October 2022.

<sup>251</sup> Ombudsperson Institution, *Annual Report 2018, 2019*, [oik-rks.org/wp-content/uploads/2019/04/Raporti-Vjetor-i-IAP-s%C3%AB-2018-shqip.pdf](https://oik-rks.org/wp-content/uploads/2019/04/Raporti-Vjetor-i-IAP-s%C3%AB-2018-shqip.pdf), p. 113.

<sup>252</sup> Prishtina Insight, “Kosovo shelters for domestic abuse victims close down”, 12 January 2018, [//prishtinainsight.com/kosovo-shelters-domestic-abuse-victims-close/](https://prishtinainsight.com/kosovo-shelters-domestic-abuse-victims-close/)

<sup>253</sup> Prishtina Insight, “Kosovo allocates emergency funds for domestic violence shelters”, 13 January 2018, [//prishtinainsight.com/kosovo-allocates-emergency-funds-domestic-violence-shelters/](https://prishtinainsight.com/kosovo-allocates-emergency-funds-domestic-violence-shelters/)

<sup>254</sup> Amnesty International, Interviews with Zana Hamiti, May 2022, and Erëblina Dinarama, June 2022.

<sup>255</sup> Ministry of Justice, “Haxhiu: Si asnjëherë më parë strehimoret kanë vëmendjen e shtetit”, 20 March 2023, [md.rks-gov.net/page.aspx?id=1,15,2964](https://md.rks-gov.net/page.aspx?id=1,15,2964)

<sup>256</sup> Amnesty International, Follow-up to the interview with Zana Hamiti, March 2023.

appear to take into consideration factors such as the number of people receiving their services each year and the rate of inflation when allocating annual budgets.<sup>257</sup>

The Department of Social and Family Policy at the Ministry of Finance, Labour and Transfers explained that the budget requires parliamentary approval, a process which can be extremely slow.<sup>258</sup> At the time of writing, the Department was in the process of approving a new regulation on contracting services, designed to address the delays. International donors are reportedly providing less funding as they expect these services to be covered by the state; a position not supported by the government.<sup>259</sup>

To address the challenges, under the draft Law on Prevention and Protection from Domestic Violence, Violence against Women and Gender-based Violence, which is expected to be approved by parliament in 2023, the government would dedicate adequate funds for sustainable financing of licensed shelters for a three-year period.<sup>260</sup> Additionally, the draft law foresees that shelters would be organized in accordance with CoE standards, requiring at least one shelter to be available for every 10,000 people.<sup>261</sup>

In response to Amnesty International's official request for information, the Ministry of Justice confirmed that support for shelters has doubled in 2023, from 400,000 euros to 892,000 euros. The Ministry noted that a new draft law on social and family services, which is to be approved in 2023, would address "issue of contracting services for longer periods of time in order to ensure sustainable funding for shelters."<sup>262</sup> However, the director of the shelter in Pristina, at Amnesty International's request to comment on this new development, noted that, while welcome, the promised budget is still too low considering the rising rate of inflation and the increase in demand for shelter spaces.<sup>263</sup>

International law and standards require that states provide and adequately fund accessible, affordable and adequate services to protect women from gender-based violence, prevent the reoccurrence of violence and provide or ensure funding for reparations to all victims/survivors.<sup>264</sup> Article 8 of the Istanbul Convention also requires states to allocate appropriate financial and human resources for the adequate implementation of all policies, programmes and services, including shelters, to prevent and combat domestic violence.

Funding should also be provided to shelters for non-core activities such as public awareness raising, advocacy and capacity building of staff and capacity building of survivors staying at the shelters. Furthermore, the Kosovo authorities should consider establishing and supporting a national network of shelters and other support services to mainstream and improve service standards, operationalizing a national system of data collection, and creating opportunities for capacity building and exchange of knowledge and good practices.

## 6.4 LACK OF SHELTERS FOR LGBTI SURVIVORS OF DOMESTIC VIOLENCE

There is no specialized shelter for LGBTI survivors of domestic violence in Kosovo and the existing shelters do not adequately respond to specific needs of LGBTI survivors. Thus, people who experience domestic violence because of their sexual orientation or gender identity have no other option but to stay in abusive environments.<sup>265</sup> The absence of shelter support, distrust in institutions and the economic dependence of LGBTI people on their families are among the main reasons that LGBTI people under-report of cases of domestic violence.<sup>266</sup> "When you know that there is no shelter for you here, you don't go to report your case," Arbër Nuhiu, the representative of an LGBTI organization in Kosovo, told Amnesty International.<sup>267</sup>

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<sup>257</sup> Amnesty International, Interviews with Zana Hamiti and Erëblina Dinarama, May-October 2022.

<sup>258</sup> Amnesty International, Interview with Adile Shqiri, Ministry of Finance, Labour and Transfers Department of Social and Family Policy, September 2022.

<sup>259</sup> Amnesty International, Interview with Adile Shqiri, September 2022.

<sup>260</sup> Draft-Law on Prevention and Protection from Domestic Violence, Violence against Woman and Gender-based Violence, Article 24(7-8).

<sup>261</sup> Draft-Law on Prevention and Protection from Domestic Violence, Violence against Woman and Gender-based Violence, Article 24(9).

<sup>262</sup> Kosovo Ministry of Justice, Official Response to Amnesty International's research findings on challenges facing survivors of domestic violence, 22 August 2023. On file with Amnesty International.

<sup>263</sup> Amnesty International, Telephone call with Zana Hamiti, August 2023.

<sup>264</sup> CEDAW Committee, General Recommendation No.35 (previously cited), para. 26(b).

<sup>265</sup> Amnesty International, Interviews with representatives of LGBTI organizations Center for Equality and Liberty, Center for Social Group Development, Streha, and Lendi Mustafa, September-December 2022; Interview with Learth (name changed for anonymity), December 2022.

<sup>266</sup> Amnesty International, Interviews with representatives of LGBTI organizations Center for Equality and Liberty, Center for Social Group Development, Streha, and Lendi Mustafa, September-December 2022; Interview with "Learth" (name changed for anonymity), December 2022.

<sup>267</sup> Amnesty International, Interview with Arbër Nuhiu, executive director at NGO Center for Social Group Development, December 2022.

Existing shelters for women and children do not accept all LGBTI survivors and the few that do cannot respond adequately to their needs.<sup>268</sup>

Men over the age of 18 are not eligible to access any of the existing shelters, leaving gay and trans men without protection from domestic violence. Representatives from CEL told Amnesty International that LGBTI people who stayed at shelters in Kosovo reported being harassed by staff or other survivors.<sup>269</sup> A trans girl, who had been taken to the shelter for children by police, told the LGBTI organization CEL that she returned to her abusive family after being harassed by the staff and other children at the shelter.<sup>270</sup> Similarly, "Leartha", a trans woman survivor of domestic violence, told Amnesty International that she decided to leave the shelter where she was staying in 2019 because of harassment by other women residents.<sup>271</sup>

Due to the lack of specialized shelters in Kosovo, some LGBTI survivors of domestic violence resort to seek assistance in the LGBTI shelter Streha in neighbouring Albania. However, this means they must leave Kosovo for a completely different environment where they do not have family or friends; and where, they may find the local Albanian dialect challenging.<sup>272</sup> According to Esmeralda Kumaniku from Streha, the rehabilitation and empowerment process of LGBTI survivors of domestic violence from Kosovo is much more difficult compared to LGBTI survivors from Albania. "For them, coming to the shelter is a tipping point and a very big step that requires a lot of psychological effort because they take the decision to report the violence and to leave the country."<sup>273</sup>

Moreover, not all LGBTI survivors from Kosovo can access Streha. The shelter only admits persons aged 18-29 years,<sup>274</sup> and the admission process is lengthy and difficult. "Leartha" told Amnesty International that she had been waiting for a response from the shelter for two months after making an application.<sup>275</sup>

In the absence of a specialized shelter in Kosovo, CEL stepped in to pay the rent for an apartment in Pristina that accommodated up to five people. Nevertheless, the funding for the apartment was not sustainable and ended in December 2022.<sup>276</sup>

Plans to establish a shelter for LGBTI survivors of violence in Kosovo have been underway since at least October 2020, when the Municipality of Pristina announced that it had allocated a municipal property for the purpose.<sup>277</sup> Additionally, the Government of Kosovo committed to offering support services, including shelter access to special groups, boys and men who are victims of violence, and LGBTI people, dedicating 120,000 euros per year for 2022, 2023 and 2024.<sup>278</sup> Despite these plans, no concrete progress had been made at the time of writing.<sup>279</sup> Moreover, the Municipality of Pristina has reportedly notified CEL that the allocated municipal property is not guaranteed and will likely change.<sup>280</sup>

The Government of Kosovo and municipalities should intensify their efforts to establish a new specialized shelter for LGBTI people. In the meantime, they should ensure that LGBTI survivors of domestic violence can access other safe accommodation.

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<sup>268</sup> Interview with Jubilea Kabashi, director of the shelter in Prizren, July 2022. Online Interview with Gresa Rrahmani, legal consultant at Centre for Equality and Liberty, May 2022; Interview with Blert Morina, December 2022.

<sup>269</sup> Amnesty International, Online Interview with Gresa Rrahmani, legal consultant at Centre for Equality and Liberty, May 2022; Interview with Blert Morina, December 2022.

<sup>270</sup> Amnesty International, Interview with Blert Morina, December 2022.

<sup>271</sup> Amnesty International, Interview with "Leartha" (name changed for anonymity), November 2022.

<sup>272</sup> Amnesty International, Online interview with Adela Alikaj and Esmeralda Kumanaku, October 2022.

<sup>273</sup> Amnesty International, Online interview with Adela Alikaj and Esmeralda Kumanaku, October 2022.

<sup>274</sup> Amnesty International, Online interview with Adela Alikaj and Esmeralda Kumanaku.

<sup>275</sup> Amnesty International, Interview with "Leartha" (name changed for anonymity), December 2022.

<sup>276</sup> Amnesty International, Interview with Blert Morina, November 2022.

<sup>277</sup> Amnesty International, Interview with representatives of the Municipality of Pristina, June 2022.

<sup>278</sup> Ministry of Justice, National Strategy on Protection against Domestic Violence and Violence against Women 2022-2026 (previously cited), p. 116.

<sup>279</sup> Amnesty International, Interview with Blert Morina, May 2023.

<sup>280</sup> Amnesty International, Information from Blert Morina, June 2023.

# 7. LACK OF SUPPORT FROM CENTERS FOR SOCIAL WORK

Ten out of 13 survivors interviewed by Amnesty International who had interactions with the Centres for Social Work (CSW) described their experiences as negative.<sup>281</sup> They reported that social workers were not empathetic or helpful. Three survivors said that social workers put them under direct pressure to return to their abusers and even tried to justify the abuse or blamed them for the violence they experienced.<sup>282</sup>

Survivors described the services they received from the CSW as unprofessional and not thorough. "Diella" described to Amnesty International how a social worker had told her: "I can't believe what your husband went through with you, and I feel sorry for him for having to put up with you".<sup>283</sup> "Edona" recalled how she telephoned social workers for help while her husband was beating her, only to be told to try and engage in dialogue with him. It took social workers two days to go to the house to check on her.<sup>284</sup> "Ana", who went to the CSW with stiches on her head from the injuries inflicted by her husband, reported that a social worker told her that the family was "holy" and needed to be protected, and urged her to reconcile with her husband.<sup>285</sup> "Arjeta" told Amnesty International, "I called my case manager and told her that my sisters in law had been beating me again, she just said, 'that is your problem' and hung up on me".<sup>286</sup>

Similar issues with the CSW were reported by the ethnic Serb survivors interviewed. "Maja" from North Mitrovica told Amnesty International that the CSW staff she encountered seemed overworked and disinterested in supporting her; they showed little empathy or understanding. When "Maja" approached the CSW for the first time, the social workers asked her whether she wanted to reconcile with her husband. They attempted to mediate between them, rather than determining how serious was the abuse, understand her needs and priorities and refer "Maja" to relevant support services.<sup>287</sup>

The authorities should provide CSWs with mandatory training on the prevention, detection and prosecution of domestic violence, including on the needs and rights of victims and context specific gender stereotypes; the gendered nature of violence against women and domestic violence, and harmful impact of children witnessing violence. Authorities should also increase recourses for social programs designated to the recovery of survivors of domestic violence and provide adequate human and financial resources to support survivors.

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<sup>281</sup> Amnesty International, Interviews with "Ana", "Diella", "Edona", "Gresa A", "Kaltrina", "Filloreta", "Arjeta", "Leara", "Maja" and "Diana", August-October 2022.

<sup>282</sup> Interviews with "Diella", "Ana", "Edona" (names changed for anonymity), August-September 2022.

<sup>283</sup> Amnesty International, Interview with "Diella" (name changed for anonymity), September 2022.

<sup>284</sup> Interview with "Edona" (name changed for anonymity), August 2022.

<sup>285</sup> Interview with "Ana" (name changed for anonymity), August 2022.

<sup>286</sup> Interview with "Arjeta" (name changed for anonymity), September 2022.

<sup>287</sup> Interview with "Maja" (name changed for anonymity), September 2022.

In response to Amnesty International's official request for information, the Ministry of Justice confirmed that a new draft law on social and family services, which is expected to be approved in 2023, provides for increased budget for CSWs and more staff.<sup>288</sup>

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<sup>288</sup> Kosovo Ministry of Justice, Official Response to Amnesty International's research findings on challenges facing survivors of domestic violence, 22 August 2023. On file with Amnesty International.



# 8. VICIOUS CIRCLE: LACK OF LONG-TERM SUPPORT PREVENTS SURVIVORS BUILDING NEW LIVES

**“A single woman in Kosovo doesn’t live. She survives.... If you don’t have strong family support and other support structures around you, you are an easy target in this society. What we have here is an institutional failure to protect women.”**

“Diana”, survivor of domestic violence from Kosovo<sup>289</sup>

Economic dependence is among the most important factors affecting the ability of survivors to escape domestic violence and start a new life. In the context of significant unemployment among women and structural gender inequalities in Kosovo, many women in abusive relationships are also victims of economic violence.<sup>290</sup> The coercive behaviour of their abusers, in combination with their lack of access to independent income or control over funds or property, results in many survivors having no alternative but to stay in abusive relationships.

There is limited, if any, government support, including financial assistance or social housing, available to survivors of domestic violence, including those who go through shelters.<sup>291</sup> While shelters are an emergency and temporary solution, survivors require longer-term assistance to fully recover and start building independent lives. At the time of writing, the government had no policy to provide even temporary, one-off support to assist survivors’ transition to independent living. Most survivors who are unemployed or who do

<sup>289</sup> Amnesty International, Interview with “Diana” (name changed for anonymity) , September 2022.

<sup>290</sup> Amnesty International, Interview with Luljeta Demolli, director of the Kosovo Center for Gender Studies, June 2022; Online interview with Dr Linda Gusia, Lecturer in the Department of Sociology, University of Pristina, May 2022; Interview with Luljeta Aliu, June 2022; Interview with Arrita Rezniciq, May 2022.

<sup>291</sup> .Amnesty International, Interviews with Zana Hamiti, May and August 2022; Interview with Ardit Balaj, October 2022; Interview with Jubilea Kabashi, July 2022; Interview with Fidane Hyseni, August 2022. Out of 10 survivors interviewed by Amnesty International who had left shelter accommodation, only one reported receiving support in the form of payment for her rent from the Municipality of Mitrovica. She said that this payment, as well as help in finding a job, was crucial to her starting her independent life.

not earn enough to pay rent or cover their living expenses, are left with very limited or no support after they leave the shelters.<sup>292</sup> While some women survivors return to their families of birth, those whose families do not accept them or who cannot support them<sup>293</sup> are compelled to return to their abusers.<sup>294</sup> The situation is especially dire for people experiencing domestic violence because of their sexual orientation or gender identity because their abusers are usually their birth families. Thus, they are compelled to stay in or return to abusive households with no governmental assistance or support.<sup>295</sup>

Amnesty International conducted a systematic review of criminal judgments in cases of domestic violence<sup>296</sup> which revealed 35.3% of survivors withdrew from prosecution<sup>297</sup>. Ten percent of these survivors stated they withdrew because they relied on the perpetrator's financial support for themselves or for their children, and 44.4% of survivors who withdrew from prosecution, did so because they reported being back in a relationship with the defendant.<sup>298</sup> Amnesty International is concerned that the lack of state support for survivors may contribute to their withdrawal from prosecution cases.

As one criminal court judge put it: "In court, we often see that women forgive [the perpetrators] because they don't have the means to separate and live independently."<sup>299</sup> This number is likely higher, considering that not all victims may feel comfortable expressing their reasons for withdrawing.

In some cases, municipalities support survivors with social housing after leaving the shelter, but this support is not institutionalized or regular.<sup>300</sup> In one case documented by Amnesty International, a survivor received social housing support only following a direct intervention by a sympathetic local official.<sup>301</sup> Yet the vast majority of survivors interviewed said they received no financial or other support from the authorities after leaving a shelter.

"Diana" from Pristina told Amnesty International that, although she eventually managed to live independently, she was aware that many women who leave abusive relationships eventually return to their abusers: "Many cannot survive on their own; they are financially and emotionally dependent on their husbands."<sup>302</sup>

At the shelter in Pristina, Amnesty International interviewed "Gresa A", a survivor of domestic violence from the Ashkali ethnic minority in Kosovo. It was "Gresa A's" third time at the shelter following physical and psychological violence from her husband and her mother-in-law. She said that her birth family told her she could return to live with them but only if she came without her child, which was unacceptable for "Gresa A". "I would like for my son's kindergarten to be free for a month or two and to get someone to pay for a flat where I could live until I find a job, that's all", Gresa told Amnesty International.<sup>303</sup> "Gresa A" eventually returned to her husband.<sup>304</sup>

According to the director of Single Parents' Association, which supports over 360 single mothers from across Kosovo, the majority of whom are survivors of domestic violence, the lack of sufficient state support and social housing is one of the key reasons why women decided not to report violence. They see no way out of such relationships in the long run.<sup>305</sup> Organizations working with survivors expressed similar concerns.<sup>306</sup>

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<sup>292</sup> Amnesty International, Interview with Sevdije Morina, Vice-Chief-State Prosecutor of Kosovo, September 2022; Interview with Zana Hamiti, June 2022; Interview with Burhan Maxhuni, September 2022; Interview with Fidane Hyseni, August 2022.

<sup>293</sup> Amnesty International, Online Interview with Dr. Eli Krasniqi, anthropologist and lecturer in the Department of History, Karl-Franzes University of Graz, May 2022.

<sup>294</sup> Amnesty International, Interview with Sevdije Morina, Vice-Chief-State Prosecutor of Kosovo, September 2022; Interview with Zana Hamiti, June 2022; Interview with Burhan Maxhuni, September 2022; Interview with Fidane Hyseni, August 2022; Interview with "Gresa A" (name changed for anonymity), August 2022.

<sup>295</sup> Amnesty International, Interviews with representatives of LGBTI organizations Center for Equality and Liberty, Center for Social Group Development, and Lendi Mustafa, September-December 2022; Interview with Lerta (name changed for anonymity), December 2022.

<sup>296</sup> This report refers to all court judgments from the systematic random sample as judgments in domestic violence cases because they are cases of violence within family or domestic unit or between former or current spouses or partners. This includes several criminal offences, including domestic violence, violation of protection orders, threat, assault, harassment, light bodily injury, aggravated bodily injury, unlawful deprivation of liberty, destruction of property, contempt of court, illegal possession of firearms and coercion, among others.

<sup>297</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B1.1 Victims withdrawing from prosecution, Table 5.

<sup>298</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B1.1 Victims withdrawing from prosecution.

<sup>299</sup> Kosova Women's Network, "From Laws to Action – Monitoring the Institutional Response to Gender-based Violence in Kosovo" (previously cited), p. 96.

<sup>300</sup> Amnesty International, Interviews with Zana Hamiti, June, August and October 2022; Interview with Erëblina Dinarama, June 2022; Interview with Fidane Hyseni, August 2022.

<sup>301</sup> Amnesty International, Interview with "Maja" (name changed for anonymity), September 2022.

<sup>302</sup> Amnesty International, Interview with "Diana" (name changed for anonymity), September 2022.

<sup>303</sup> Amnesty International, Interview with "Gresa A" (name changed for anonymity), August 2022.

<sup>304</sup> Amnesty International, Interview with Zana Hamiti, October 2022.

<sup>305</sup> Amnesty International, Interview with Arjeta Gashi, September 2022.

<sup>306</sup> OSCE, "Survey on violence against women – Survey on well-being and safety of women in Kosovo" (previously cited), p. 83.

The Government of Kosovo has recognized unemployment, the economic dependence of women on men and a lack of opportunities to lead an independent economic and social life as key factors contributing to gender-based violence.<sup>307</sup> The now-expired National Strategy for Protection from Domestic Violence (2016-2020) included the introduction of specialized rehabilitation and reintegration services for victims of domestic violence.<sup>308</sup> Unfortunately, these measures were not implemented. In the new National Strategy for Protection against Domestic Violence (2022-2026), the government committed to a detailed plan with concrete activities, institutions responsible for their implementation and specific budget allocations for their realization.<sup>309</sup>

Nevertheless, since the National Strategy's approval in February 2022, there have been no noteworthy developments with regards to any of these programmes or activities. At the time of writing, survivors of domestic violence had no access to any new specialized governmental programmes aimed at their recovery, greater independence, sustainable reintegration, and empowerment. Although the government had designated budgetary lines for the years 2022, 2023 and 2024 in the National Strategy, these amounts were not reflected in the approved budgets for 2022 or 2023.<sup>310</sup> In response to Amnesty International's official request for information, the Ministry of Justice confirmed that they are developing "a support measure" for women and girls who are victims of domestic and gender-based violence, which aims to "provide employment opportunities and state subsidies to the victims for a designated period".<sup>311</sup>

In some municipalities, local governments have implemented measures to support survivors of domestic violence to become independent. The Municipalities of Gjakova and Mitrovica provide aid to some survivors in a form of rent subsidies; however, this is not done in a systematic and continuous way.<sup>312</sup> The Municipality of Pristina made important progress in this regard in November 2022, when the municipal assembly introduced special financial assistance for survivors of domestic violence, including financial support of up to 250 euros per month for rent and 150 euros of direct financial assistance, if the survivor is not a beneficiary of any other social scheme.<sup>313</sup> Survivors with children receive an additional 100 euros per child.<sup>314</sup> This specialized support is provided for a period of between six months and two years and is conditional on the survivor reporting domestic violence to the police and applying for a protection order in court. The CSW is required to assist survivors who are staying at shelters and wish to apply for this assistance, but they can also help survivors outside of the shelters. This assistance is available only to residents of the Pristina municipality. As of March 2023, 22 persons had applied for the assistance; five had received benefits, seven were rejected and the other applications were still being processed.<sup>315</sup>

The Pristina municipality advertised the special assistance for survivors of domestic violence through its online platform, the Shelter House in Pristina, the CSW, discussions with citizens, social media and television appearances.<sup>316</sup> Considering that this is a new policy, more efforts are needed to advertise it and ensure that the information reaches survivors who may not have access to the abovementioned channels.

The Istanbul Convention requires states to take all necessary measures to ensure that victims have access to services facilitating their recovery from violence. Such measures should include, among others, financial assistance, housing, education, training and assistance in finding employment.<sup>317</sup> The CEDAW Committee has also urged to states to ensure "access to financial assistance [...] education, affordable housing, land, childcare, training and employment opportunities for women who are victims/survivors and their family members."<sup>318</sup> Additionally, the UN Special Rapporteur on the right to adequate housing has pointed that legislation on domestic violence should recognize the link with the right to adequate housing and includes

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<sup>307</sup> Ministry of Justice, National Strategy on Protection against Domestic Violence and Violence against Women 2022-2026 (previously cited), p. 1.

<sup>308</sup> National Strategy of the Republic of Kosovo on Protection from Domestic Violence and Plan of Action, 2016-2020, May 2016.

<sup>309</sup> Ministry of Justice, National Strategy on Protection against Domestic Violence and Violence against Women 2022-2026 (previously cited), p. 49.

<sup>310</sup> Law No.08/L-066 on budget appropriations for the budget of the Republic of Kosovo for year 2022, [gzk.rks-gov.net/ActDetail.aspx?ActID=51763](https://gzk.rks-gov.net/ActDetail.aspx?ActID=51763); Law No.08/L-193 on budget appropriations for the budget of the Republic of Kosovo for year 2023, [gzk.rks-gov.net/ActDetail.aspx?ActID=68589](https://gzk.rks-gov.net/ActDetail.aspx?ActID=68589)

<sup>311</sup> Kosovo Ministry of Justice, Official Response to Amnesty International's research findings on challenges facing survivors of domestic violence, 22 August 2023. On file with Amnesty International.

<sup>312</sup> Amnesty International, Interview with Erëblina Dinarama, June 2022; Interview with (then) deputy-Mayor of North Mitrovica Adriana Hodžić, September 2022.

<sup>313</sup> Kuvendi i Komunës së Prishtinës, Vendim për përkrahje financiare për viktimat e dhunës në familje, 24 November 2022, made available to Amnesty International.

<sup>314</sup> The average gross salary in Kosovo in 2021 was 484 euros. See: Kosovo Agency of Statistics, "Niveli i Pagave në Kosovë", 2021, 27 May 2022, [ask.rks-gov.net/sq/ajencia-e-statistikave-te-kosoves/add-news/niveli-i-pagave-ne-kosove-2021](https://ask.rks-gov.net/sq/ajencia-e-statistikave-te-kosoves/add-news/niveli-i-pagave-ne-kosove-2021)

<sup>315</sup> Amnesty International, Email correspondence with representatives of the Municipality of Pristina, 23 March 2023.

<sup>316</sup> Amnesty International, Email correspondence with representatives of the Municipality of Pristina, 23 March 2023.

<sup>317</sup> Istanbul Convention (previously cited), Art. 20.

<sup>318</sup> CEDAW General Recommendation 35 (previously cited), para. 31 (iii).

legal protections for survivors and their dependents to realize this right including the provision of alternative adequate housing for survivors and their dependents.<sup>319</sup>

Kosovo's government should take all necessary measures to ensure that there is a clear pathway for survivors of domestic violence out of abusive relationships. This should include specially designed social protection measures enabling survivors to exercise their social and economic rights, including the rights to adequate standard of living and work. Such measures should be accessible and eligibility criteria should factor in the lived reality of survivors, for example where the case may be pending in court, or where they have not filed a police complaint. Survivors and their dependents should be provided with access to with both emergency housing and longer-term social housing where applicable; and should be among those prioritized for allocation of social housing.

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<sup>319</sup> Women and adequate housing: Study by the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari, UN DOC. E/CN.4/2005/43, 2005, para. 46.

# 9. COURT DECISIONS ON ALIMONY DELAYED

Court proceedings for divorce, alimony and division of property may last for many years, leaving survivors in a very precarious position, especially where they must take care of their children without financial support. The research found that very few perpetrators of domestic violence pay alimony, even when required to do so by courts, and the state lacks effective mechanisms to ensure compliance.<sup>320</sup>

Survivors interviewed by Amnesty International noted that courts tended to determine a lump sum – typically between 50 and 150 euros per month – for alimony and rarely take into account the income of the perpetrator.<sup>321</sup> Ana, a survivor who received a protection order requiring her husband to pay alimony of 150 euros per month for a period of six months, recalled how the victim advocate was pleasantly surprised: “The victim advocate was like ‘wow’, as if this was an extraordinary achievement.... he said that the amounts are usually much lower. I was considered lucky.”<sup>322</sup>

“Diella”, another survivor, told Amnesty International that her husband, who normally earns around 3,500 euros a month, was ordered to pay only 150 euros for their child: “He didn’t pay me a dime for one whole year. When I sought help from victim advocates, they told me ‘But you are employed, you should be able to cover the expenses for your child’. I only make 500 euros [per month].”<sup>323</sup>

Indeed, courts face difficulties assessing the income of perpetrators who work in the informal economy, as there is no reliable way to determine their earnings. Even in cases where the courts issue decisions ordering the husband to pay alimony, interviewees told Amnesty International that many domestic violence perpetrators refuse to pay. “Diana”, a single mother of two, told Amnesty International that the state should pay alimony for children up front and afterwards seek to retrieve the money from the other parent.<sup>324</sup>

The National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) includes awareness raising and judicial training on joint property rights and child alimony. However, as noted in the CoE /GREVIO report, there are no judicial guidelines or regular monitoring of administrative and court practices to address gaps in the implementation of laws related to women’s equal access to property, inheritance and child alimony, which is a gap that needs to be urgently addressed by Kosovo authorities, alongside other efforts to ensure survivors’ equal access to socio-economic rights.

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<sup>320</sup> Amnesty International, Interviews with survivors Diana, Diella and Kaltrina, August-October 2022; Interview with Adelina Berisha, 1 June 2022; Interview with Fitim Gashi, September 2022; Interview with Arjeta Gashi, director at Single Parents’ Association, September 2022; Interview with Luljeta Aliu, Initiative for Justice and Equality, June 2022; Interview with Luljeta Demolli, Kosovo Center for Gender Studies, May 2022.

<sup>321</sup> Amnesty International, Interview with Fitim Gashi, September 2022; Interview with Arjeta Gashi, September 2022; Interview with Luljeta Aliu, June 2022.

<sup>322</sup> Interview with “Ana” (name changed for anonymity), September 2022.

<sup>323</sup> Interview with “Diella” (name changed for anonymity), September 2022.

<sup>324</sup> Interview with “Diana” (name changed for anonymity), September 2022.

# 10. SURVIVORS COMPELLED TO NAVIGATE A COMPLEX JUSTICE SYSTEM ALONE

## 10.1 LEGAL SUPPORT SYSTEM IS FAILING SURVIVORS

A key aspect of the government response to domestic violence is the provision of legal support, representation and assistance to survivors. In Kosovo, the Victims Advocacy and Assistance Office provides victims of crimes, including domestic violence, with support in accessing justice through legal proceedings.<sup>325</sup> Victim advocates – legal professionals within the Victims Advocacy and Assistance Office – provide free legal services and representation to victims of crimes from their initial contact with the authorities, including the police, prosecution and criminal courts, as well as in proceedings for protection order requests in civil courts.<sup>326</sup>

This report’s findings show that the Victims Advocacy and Assistance Office is severely understaffed and under-resourced and therefore unable to effectively assist and represent victims of domestic violence in accessing justice. In the absence of consistent and adequate legal support, survivors are left to navigate a complex justice system alone.

### 10.1.1 VICTIM ADVOCATES - UNDERSTAFFED, OVERWORKED AND ABSENT

**“We are only two victim advocates in the entire Mitrovica region, which covers seven municipalities. Sometimes we must work 24-hour shifts to cover the workload.”**

A victim advocate from Mitrovica.<sup>327</sup>

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<sup>325</sup> This office functions as an independent body within the Office of the State Prosecution and has seven regional offices around Kosovo.

<sup>326</sup> Law on protection from domestic violence, Article 2(1.8). Criminal Code of Procedure, Article 63(2).

<sup>327</sup> Amnesty International, Interview with victim advocate, September 2022.

The persistent staff shortages in the Victims Advocacy and Assistance Office is a long-standing issue.<sup>328</sup> Only 24 victim advocates worked on a total of 2,847 cases, 774 more than in 2021.<sup>329</sup> The vast majority of these cases involved domestic violence.<sup>330</sup> There is a consensus among civil society, police and legal professionals in Kosovo that the Victims Advocacy and Assistance Office has struggled to meet its case load and that there is an urgent need to significantly increase the number of staff and their capacity.<sup>331</sup>

Apart from being understaffed and overworked, victim advocates often lack adequate office space, leaving them with no place to speak confidentially with victims.<sup>332</sup> A judge from the Basic Court of Pristina told Amnesty International: “I have seen them work in terrible conditions, meeting with the parties and going through documents in the courtyard. They do not even have basic working conditions and must run from one case to another”.<sup>333</sup>

These persistent challenges leave victim advocates unable to effectively assist victims of domestic violence. Their absence is noticeable in all segments of the justice system, at each stage of a victim’s interaction with institutions. According to the Chief of the Kosovo Police Unit for Prevention of Domestic Violence in Pristina, victim advocates rarely come to the police to assist victims when they report domestic violence cases.<sup>334</sup> Victim advocates are also often absent in civil court proceedings for protection order requests, as confirmed by a judge interviewed for this study.<sup>335</sup>

Amnesty International’s review of court decisions confirms the challenge of underrepresentation of survivors is widespread. Two thirds of survivors of domestic violence were present in court.<sup>336</sup> Across all 255 survivors, 52 survivors (20.4%) were represented by a victim advocate. Conversely, eight survivors (3.1%) were represented by a private attorney. The majority of victims (199 individuals, 78%) was not represented by any legal professional.<sup>337</sup> A 2022 report by Kosovo Law Institute and the Kosovo Centre for Gender Studies, which analysed a random sample of 50 domestic violence first instance decisions, similarly found that victims did not receive any professional legal representation in 72% of cases.<sup>338</sup>

The systematic gaps in the work of the Victim Advocacy and Assistance Office forces most survivors to navigate a complicated criminal justice system alone, without legal support, representation or assistance. Furthermore, as elaborated below, even when victim advocates are present, they often offer inadequate support and assistance.

## 10.1.2 VICTIMS ADVOCACY AND ASSISTANCE OFFICE FAILING SURVIVORS

**“When I asked [the victim advocate] why he is not saying anything in court, he replied – ‘the case will win itself’.”**

“Diella” from Pristina.<sup>339</sup>

<sup>328</sup> Kosovar Institute for Policy Research and Development (KIPRED), *Compensation to Victims of Crime: Response to Domestic Violence and Human Trafficking cases in Kosovo*, March 2018, [kipred.org/repository/docs/Final\\_English\\_Version\\_141863.pdf](https://kipred.org/repository/docs/Final_English_Version_141863.pdf), p. 22; Kosova Women’s Network, “From Laws to Action – Monitoring the Institutional Response to Gender-based Violence in Kosovo”, 7 May 2021, [womensnetwork.org/publications/from-laws-to-action-2/](https://womensnetwork.org/publications/from-laws-to-action-2/), p. 90; Agency for Gender Equality, “Assessment of the Level of Implementation of the Standard Operating Procedures for Protection against Domestic Violence” (previously cited), pp. 28-29.

<sup>329</sup> Office of the Chief State Prosecutor, *Raporti vjetor i punës së Prokurorit të Shtetit 2022* (previously cited), p. 73; *Raporti vjetor i punës së Prokurorit të Shtetit 2021*, February 2022, [prokuroria-rks.org/assets/cms/uploads/files/RAPORTI%20I%20PUN%20S%20S%20C%3%8B%20PROKURORIT%20T%20C%3%8B%20SHTETIT%20P%20C%3%8B%20VITIN%202021\(1\).pdf](https://prokuroria-rks.org/assets/cms/uploads/files/RAPORTI%20I%20PUN%20S%20S%20C%3%8B%20PROKURORIT%20T%20C%3%8B%20SHTETIT%20P%20C%3%8B%20VITIN%202021(1).pdf), p. 72.

<sup>330</sup> Office of the Chief State Prosecutor, *Raporti vjetor i punës së Prokurorit të Shtetit 2022* (previously cited), p. 73.

<sup>331</sup> Amnesty International, Interview with the then Deputy Minister of Justice and national coordinator for Prevention and Protection from Domestic Violence, June 2022; Interview with Ilire Vitija, judge at the Basic Court of Pristina, June 2022; Interview with Basri Kastrati, June 2022; Interview with Burhan Maxhuni; September 2022.

<sup>332</sup> Agency for Gender Equality, *Assessment of the Level of Implementation of the Standard Operating Procedures for Protection Against Domestic Violence* (previously cited), p. 28-29.

<sup>333</sup> Amnesty International, Interview with judge Ilire Vitija, June 2022.

<sup>334</sup> Amnesty International, Interview with Police Captain Arsim Shala, June 2022.

<sup>335</sup> Kosova Women’s Network, “From Laws to Action – Monitoring the Institutional Response to Gender-based Violence in Kosovo” (previously cited), p. 91 (this report shows that the absence of victim advocates in protection order court proceedings is a recurring issue); Amnesty International, Interview with Ilire Vitija, June 2022.

<sup>336</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B1.2 Victims’ presence during court proceedings, Table 6.

<sup>337</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B1.3 Professional legal representation, Table 8: Distribution of victims as to whether they were represented by a victim advocate and/or private attorney during criminal proceedings.

<sup>338</sup> Kosovo Law Institute and Kosovar Gender Studies Center, “The Istanbul Convention in the verdicts of courts in Kosovo”, September 2022, [kli-ks.org/konventa-e-stambollit-ne-aktgjykimet-e-gjykatave-ne-kosove/](https://kli-ks.org/konventa-e-stambollit-ne-aktgjykimet-e-gjykatave-ne-kosove/)

<sup>339</sup> Interview with “Diella” (name changed for anonymity), September 2022.

**“He kept telling me, ‘don’t speak, don’t speak!’ I told him, ‘how can you ask me not to speak, you are not saying anything!... Someone has to defend me, if you don’t, I have to do it myself’.”**

“Kaltrina” from Podujevë.<sup>340</sup>

Very few survivors interviewed for this report found victim advocates to be helpful. Many survivors were critical of victim advocates and demanded that they be better prepared and more pro-active in court sessions. Survivors complained that victim advocates did not always adequately represent their interests in court, that they often provided only superficial support or were generally unhelpful.<sup>341</sup> According to a judge from the Basic Court of Pristina, victim advocates often appear unprepared for protection order court proceedings and tend to make statements that are general, and not specific to the facts of the case or the victim they represent.<sup>342</sup>

In an interview with Amnesty International, the former National Coordinator of Protection against Domestic Violence acknowledged that victim advocates were underfunded, understaffed and underpaid, and explained that the Ministry of Justice was preparing a plan to improve their operations.<sup>343</sup> However, no noteworthy progress had been made at the time of writing. The National Strategy for Prevention and Protection from Domestic Violence from January 2022 foresees further capacity building for victim advocates<sup>344</sup> and additional “adequate human, financial and infrastructural capacities”, including expanding the staff from 24 to 40.<sup>345</sup> Amnesty International reached out to the Office of the Chief State Prosecutor, but received no response regarding this finding by the time of the publication.

International law and standards require states to take all necessary measures to protect the rights and interests of victims/survivors, including their special needs as witnesses, at all stages of investigation and legal proceedings.<sup>346</sup> To this end, states should ensure that key measures are put in place including timely and effective access to legal proceedings;<sup>347</sup> access to adequate and timely information on available support services and legal measures;<sup>348</sup> and provision of free legal aid, interpretation and court support, including independent legal counsel and intermediaries.<sup>349</sup>

Amnesty International found that the authorities in Kosovo failed to guarantee the rights and interests of the victims in legal proceedings and to provide adequate, effective and timely support, assistance, or other legal services in victims’ interactions with the justice system. The Kosovo authorities should urgently increase the number of staff in the Victims Advocacy and Assistance Office throughout the country and conduct capacity building trainings with victim advocates to improve their performance and enable them to meet survivors’ needs.

<sup>340</sup> Interview with “Kaltrina” (name changed for anonymity), August 2022.

<sup>341</sup> Amnesty International, Interviews with “Diella”, “Nita”, “Violeta” and “Ana” (not their real names), July-December 2022.

<sup>342</sup> Amnesty International, Interview with Ilire Vitija, June 2022. The judge recounted a situation where a victim advocate reiterated a victim’s supposed request to remove parental rights from the perpetrator in the case of a victim who did not have children.

<sup>343</sup> Amnesty International, Interview with Dr Nita Shala, June 2022.

<sup>344</sup> Ministry of Justice, National Strategy on Protection against Domestic Violence and Violence against Women 2022-2026 (previously cited), pp. 77-78.

<sup>345</sup> Ministry of Justice of the Republic of Kosovo, National Strategy on Protection against Domestic Violence and Violence against Women 2022-2026 (previously cited), p. 104.

<sup>346</sup> *UN Handbook for Legislation on Violence against Women*, 2012, p. 37. See also 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, 16 December 2005, UN Doc. A/RES/60/147 92006, [ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx](https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx). See also Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, [eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029)

<sup>347</sup> *UN Handbook for Legislation on Violence against Women*, 2012, p. 37; CEDAW Committee, General Recommendation No.35 (previously cited), para. 44.

<sup>348</sup> Istanbul Convention (previously cited), Article 19.

<sup>349</sup> *UN Handbook for Legislation on Violence against Women*, 2012, p. 38; Istanbul Convention (previously cited), Articles 56 (d-e & h) & 57.



## 10.2 CRIMINAL JUSTICE RESPONSE FAILING SURVIVORS

Kosovo's state response to domestic violence has a strong focus on the criminal justice system, with most state-sponsored information campaigns focusing almost exclusively on encouraging survivors to report cases to the police.<sup>350</sup> If there is enough evidence that a criminal offence was committed, the prosecution raises an indictment in court and a criminal court process takes place to determine whether the defendant is guilty and the appropriate sentence. Victims of domestic violence have the right to participate in criminal court proceedings, but their absence does not hinder the court in reaching a decision.<sup>351</sup> Victims may also be called as witnesses, submit written submissions to the court such as a declaration of damages suffered, present evidence, question other witnesses and present other motions.<sup>352</sup>

Despite legislative amendments in 2019 which defined domestic violence as a separate criminal offence and led to the appointment of specialized prosecutors for domestic violence cases, Amnesty International's research found that the criminal justice system is failing survivors. The data collected indicates that perpetrators who are convicted of domestic violence routinely receive sentences that are not commensurate with the gravity of the offence, specifically in view of the violent nature of many of these crimes and the discriminatory aspect of domestic violence as a form of gender-based violence with a disproportionate impact on women and girls.<sup>353</sup> Additionally, in some instances where both intimate partners were convicted of domestic violence, courts have neglected to consider the gender-based power dynamics between partners.

Sentences incommensurate with the gravity of the offence erodes survivors' trust in the police and the criminal justice system and discourages them from reporting cases and seeking much-needed help and support.

### 10.2.1 SENTENCES NOT COMMENSURATE WITH THE GRAVITY OF THE OFFENCE

Domestic violence is punishable with up to three years' imprisonment and a fine of 100 to 25,000 euros.<sup>354</sup> Generally, any criminal offence that is punishable with up to five years' imprisonment can be issued as a suspended sentence.<sup>355</sup> Courts may also order perpetrators to do community service, use their income or property to fulfil family obligations, undergo psychological counselling, or rehabilitation programmes or medical treatment, refrain from using drugs or alcohol or contacting certain persons, and compensate victims for damages.<sup>356</sup>

Five out of six survivors interviewed for this report said that their abusers, who were found guilty, only received fines or suspended sentences without probation. These survivors expressed a wish for harsher penalties because the sentences their abusers received left them feeling unsafe and unsupported. Four out of six survivors reported that their abusers continued to be violent even after being sentenced. Penalties for domestic violence are largely seen by survivors and civil society, as well as some state officials, as not commensurate with the gravity of the offences, therefore contributing to an environment of impunity.<sup>357</sup>

Amnesty International's systematic review of court judgments against 218 defendants found that just 11% received a custodial sentence.<sup>358</sup> 74% received a suspended prison sentence, 45% received a fine and 20% received a suspended fine, noting some defendants received a combination of sentences, such as a suspended prison sentence and a fine.<sup>359</sup> In a number of cases, the sentences imposed acknowledged time served by perpetrators in pre-trial detention with the remainder of the sentence suspended. Court

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<sup>350</sup> See Section 4 of this report, Police failing victims of domestic violence.

<sup>351</sup> Criminal Code of Procedure of Kosovo, Article 282(4).

<sup>352</sup> Criminal Code of Procedure of Kosovo, Articles 9(3) & 63.

<sup>353</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B1 Victims and Figure 2: Comparative distribution of victims' gender, by type of relationship.

<sup>354</sup> Criminal Code of Kosovo, Article 248 & 43.

<sup>355</sup> Criminal Code of Kosovo, Article 49.

<sup>356</sup> Criminal Code of Kosovo, Article 56.

<sup>357</sup> Amnesty International, Interviews with representatives from NGOs Kosova Women's Network, Kosovo Democratic Institute, Initiative for Justice and Equality, Vice-Chief State Prosecutor, victim advocate in Mitrovica, the then director of the Victim Advocacy and Assistance Office, Fitim Gashii and Ariana Qosaj Mustafa, May-December 2022.

<sup>358</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B5 Sentencing, Table 16: Frequency distribution of sentences across defendants.

<sup>359</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B5 Sentencing, Table 16: Frequency distribution of sentences across defendants.

reprimands were given to 2%<sup>360</sup> and 6% were ordered to undergo mandatory psychiatric treatment.<sup>361</sup> The most common and also the average length for suspended prison sentences was six months, while custodial sentences were seven months on average. The average fine was 375 euros, and the average suspended fine was 309 euros. Regarding additional court orders that can form part of a sentence, 83% up to <sup>362</sup>

Courts can issue combinations of sentences and other orders. Amnesty International's review found the most common outcome to be a suspended prison sentence without probation, combined with a fine of a few hundred euros and an order to make a token payment to the Victim Compensation Fund (46 defendants, or 21%), followed by a suspended prison sentence combined with an order to pay the Victim Compensation Fund (32 defendants, or 15%).<sup>363</sup>

Regarding additional conditions that defendants might receive as part of their sentence, less than 1% of defendants were ordered to do community service (two out of a total of 218 defendants), or ordered to undergo psychological counselling (one defendant).<sup>364</sup> Of significant concern given the barriers to economic support that survivors experience, as described above, Amnesty International's review found only one defendant out of 218 was ordered to use their financial resources to support the family.<sup>365</sup>

Amnesty International's review also noted that judgments routinely included reasoning that the sentences imposed were adequate and proportionate to the weight of the criminal offense and that they would include a rehabilitation and prevention effect. However, there was rarely any indication in the case decisions of how this was achieved in the specific circumstances of each case.

In interviews conducted by Amnesty International, survivors expressed the sentiment that they had not received justice, that the state did not care about their security and wellbeing, and that they feared recurring violence given the lack of serious legal consequences for their abusers and an absence of state monitoring or intervention to prevent reoffending. "Edona" from Drenas said: "The courts should not give fines for domestic violence, like in my case, my husband received numerous fines and continued to be violent. I know he will continue to do so and perhaps he will eventually kill me."<sup>366</sup>

In 2021, "Nita"'s former husband was fined 300 euros by the Basic Court in Pristina for continuously abusing her physically and psychologically over a period of six months. She told Amnesty International: "A 300 euro fine is nothing. If he wants to do something to me again, he knows that he can get away with a 300 euro fine. Tomorrow he can do something worse to someone else."<sup>367</sup>

"Diella"'s husband also received a 300 euro fine in 2019 from the Basic Court in Pristina after physically abusing and threatening to kill her. She told Amnesty International that he continued to stalk her and psychologically abuse her long after the court found him guilty.<sup>368</sup>

Only 11% of defendants were ordered to have their suspended sentence overseen by the probation service and most of these supervision orders (20 out of 24) were issued by the same judge of the Basic Court of Gjakova.<sup>369</sup> This indicates that court-ordered probation supervision is not a common practice. This issue was highlighted in interviews conducted with survivors, only two of whom reported that their abusers received a supervised suspended sentence.

Testimony from "Ana" from Pristina shows the impact that state monitoring can have on survivors of domestic violence. "Ana" said she was satisfied when her husband received a one-year suspended prison sentence for domestic violence with oversight from the Probation Service: "It really felt good when the probation office would call me, it felt like the state was taking care of me."<sup>370</sup>

According to the Sentencing Guidelines of the Supreme Court of Kosovo "active, regular monitoring... is the most effective means of ensuring compliance, reintegration and the overall success of the suspended

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<sup>360</sup> See Table 7 in the online appendix accompanying this report.

<sup>361</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B5 Sentencing, Table 17: Frequency distribution of orders across defendants.

<sup>362</sup> Amnesty International report appendix (EUR 73/7124/2023), see Table 17: Frequency distribution of orders across defendants.

<sup>363</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.4 Combinations of sentences and orders, Figure 11: Observed combinations of sentences and orders across 218 defendants, by status of current and previous criminal law.

<sup>364</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5 Sentencing, Table 17: Frequency distribution of orders across defendants.

<sup>365</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5 Sentencing, Table 17: Frequency distribution of orders across defendants.

<sup>366</sup> Interview with "Edona" (name changed for anonymity), August 2022.

<sup>367</sup> Basic Court of Pristina, Judgment, 2021, made available to Amnesty International; Interview with "Nita" (name changed for anonymity), September 2022.

<sup>368</sup> Basic Court of Pristina, Judgment, 2019, made available to Amnesty International; Interview with "Diella" (name changed for anonymity), September 2022.

<sup>369</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.5 Order of oversight from probation service.

<sup>370</sup> Interview with "Ana" (name changed for anonymity), August 2022.

sentence.” Additionally, the Guidelines warn courts that suspended sentences without conditions attached are far more likely to fail than sentences that are actively monitored.<sup>371</sup>

According to the Istanbul Convention, Kosovo is required to impose sanctions which are “effective, proportionate and dissuasive” for offences that constitute gender-based violence, including domestic violence.<sup>372</sup> Under international human rights law and standards, Kosovo has a “due diligence” obligation “to take all appropriate measures to prevent as well as to investigate, prosecute, punish and provide reparation for acts or omissions by non-state actors which result in gender-based violence against women.”<sup>373</sup>

Because of a lack of active state monitoring of sentences, the burden falls on survivors to report cases of violation of parole to the police. Survivors may be discouraged from doing this as it can often be a difficult process.<sup>374</sup> This sentencing practice is not survivor-centred and is creating an environment in which perpetrators of domestic violence see no repercussions for their behaviour.<sup>375</sup>

The systematic review of 218 court judgments undertaken by Amnesty International revealed that 24 defendants (11%) were repeat offenders that had either previous domestic violence, or another type of criminal offence and 11 defendants (5%) had at least one previous conviction of domestic violence.<sup>376</sup> Most repeat offenders of domestic violence had at least one previous domestic violence offences, but one defendant had 17 previous domestic violence offences.<sup>377</sup>

Concerns about impunity for perpetrators of domestic violence were echoed by NGOs, state officials and experts who worried that courts in Kosovo were perpetuating systemic impunity for perpetrators of domestic violence through low fines and suspended sentences.<sup>378</sup> “[I]f a perpetrator knows that domestic violence is punished with a fine or a suspended sentence and he won’t go to prison if he is violent to his wife, it is easier for him to continue being violent,” an attorney representing survivors of domestic violence told Amnesty International.<sup>379</sup>

Kosovo’s authorities should ensure that sentences in cases of domestic violence are commensurate with the gravity of the offence and do not perpetuate an environment of impunity.

Furthermore, the Kosovo Justice Academy, and judges should undergo regular training in international human rights law and standards around issuing effective proportionate and dissuasive sanctions in cases of violence against women and domestic violence, relying on best practices. Finally, the judiciary and prosecution should implement the Sentencing Guidelines of the Supreme Court and monitor their implementation periodically in collaboration with organizations working with survivors of domestic violence.

## 10.2.2 INADEQUATE CONSIDERATION OF MITIGATING CIRCUMSTANCES

Amnesty International’s review of 197 court judgments (containing 218 sentences) revealed that during sentencing, courts tended to routinely accept various mitigating circumstances in cases of domestic violence.<sup>380</sup> The data reviewed shows that, in most cases, courts mitigated sentences for perpetrators of domestic violence based on several factors particularly related to the admission of guilt and remorse of the perpetrator.

Two thirds of survivors of domestic violence were present in court.<sup>381</sup> Courts considered it a mitigating circumstance when the victim forgave the perpetrator, which happened in 75% of overall cases, or when the

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<sup>371</sup> Supreme Court of Kosovo, Sentencing Guidelines, 2018, [supreme.gjvqesori-rks.org/wp-content/uploads/legalOpinions/Sentencing%20Guidelines\\_February%202018.pdf](https://supreme.gjvqesori-rks.org/wp-content/uploads/legalOpinions/Sentencing%20Guidelines_February%202018.pdf), p. 174.

<sup>372</sup> Istanbul Convention (previously cited), Article 45.

<sup>373</sup> Istanbul Convention (previously cited), Article 45; CEDAW Committee, General Recommendation No.19 (previously cited), para. 9. See also CEDAW Committee, General Recommendation No.35 (previously cited), para. 24(b).

<sup>374</sup> See Section 4 above Police failing victims of domestic violence.

<sup>375</sup> Amnesty International, Interviews with NGO representatives in Kosovo, representatives of the police, and the Vice-Chief State Prosecutor, May-September 2022.

<sup>376</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.9 Repeat offenders.

<sup>377</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.9 Repeat offenders, Table 25: Number of previous domestic violence offences for repeat offenders of domestic violence.

<sup>378</sup> Amnesty International, Interviews with representatives from Kosova Women’s Network, Kosovo Law Institute, Initiative for Justice and Equality, Vice-Chief State Prosecutor, victim advocate in Mitrovica, the then director of the Victim Advocacy and Assistance Office, attorney Fitim Gashi and Ariana Qosaj Mustafa, May-December 2022. See also: Kosovo Law Institute, “The Istanbul Convention in the verdicts of courts in Kosovo”, September 2022, [kli-ks.org/konventa-e-stambollit-ne-aktgjykimet-e-gjykatave-ne-kosove/](https://kli-ks.org/konventa-e-stambollit-ne-aktgjykimet-e-gjykatave-ne-kosove/)

<sup>379</sup> Amnesty International, Interview with Fitim Gashi, September 2022.

<sup>380</sup> Mitigating circumstances typically include the admission of guilt by the defendant, their apology, young age, personal circumstances and evidence that the accused has compensated the victim for the harm caused. Aggravating circumstances typically constitute repeat offending, use of a weapon, if the offence included multiple victims, age of the victim(s), harm caused, including injuries or other damages and if the criminal offence is committed within the family, among other circumstances. See: Criminal Code of Kosovo, Article 70.

<sup>381</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.1.2 Victims’ presence during court proceedings.

perpetrator apologized and the victim withdrew from prosecution, which accounted for 45% of cases.<sup>382</sup> In the latter group, 40 survivors in intimate partnerships said they withdrew from the prosecution because they were back together with the perpetrator and nine survivors withdrew because the perpetrator supported them and/or their children financially.<sup>383</sup>

The data reviewed shows that, in most cases, courts mitigated sentences for perpetrators of domestic violence based on several factors particularly related to the admission of guilt and remorse of the perpetrator. Defendants pleaded guilty in 92% of all cases reviewed, and this was taken as a mitigating circumstance in 99% of those cases.<sup>384</sup> Furthermore, an expression of remorse was considered a mitigating circumstance in 97% of relevant cases; perpetrator's promise of non-repetition of the offence in 94% of cases; and a perpetrator's apology in 85% of relevant cases.<sup>385</sup>

In its Sentencing Guidelines, the Supreme Court advised caution to courts when assessing mitigating circumstances, particularly in cases of domestic violence. The Supreme Court recognizes that a guilty plea has long been used as a mitigating factor in sentencing for many reasons. Nevertheless, it cautioned courts that the random application of this factor can lead to "double counting of factors in mitigation and overvaluation of the ultimate discount". It further advised that courts do not consider a guilty plea as disproportionately important in comparison to other factors.<sup>386</sup>

The Sentencing Guidelines also asked courts to view the defendant "with scepticism because false remorse can be a part of the cycle of violence... [in] domestic violence cases."<sup>387</sup> Judges must be satisfied that the expression of remorse was sincere in order to accept it as a mitigating circumstance in sentencing.<sup>388</sup> There are a number of considerations for the judge to take into account when deciding whether to accept an expression of remorse as a mitigating factor, including the statements made by the defendant that indicate remorse, whether they immediately sought medical assistance if the victim was injured, attempts of restitution to the victim, and so on.<sup>389</sup> Nevertheless, statements by defendants in most court decisions included a simple sentence without any details which usually read as follows: "defendant pleads guilty, he apologizes, expresses his remorse and promises the court he will not do it again".<sup>390</sup> None of the decisions reviewed included any indication that restitution took place, and an expression of remorse, along with the perpetrator's apology and his promise of non-repetition were accepted as mitigating factors in almost all cases, even in cases of repeat offending.

Across all 218 defendants, 24 (11%) had previously been convicted of criminal offences.<sup>391</sup> Of those, 23 defendants had previous criminal offences other than domestic violence, while 11 defendants had at least one previous conviction for domestic violence.<sup>392</sup> A positive aspect of the decisions is that courts considered it an aggravating circumstance that the perpetrator was a repeat offender of domestic violence in all cases reviewed.<sup>393</sup> Nevertheless, an apology (77% of relevant cases), promise of non-repetition (95% of relevant cases) and expression of remorse (95% of relevant cases) was considered a mitigating circumstance even in cases of offenders who had repeated their offence.<sup>394</sup> In most of these cases too, mitigating circumstances were merely quoted together in one sentence with no further argumentation. In a case in Peja, one defendant was convicted of domestic violence against his intimate partner for the fifth time but only received a prison sentence of six months; one-sixth of the maximum prison sentence for domestic violence in Kosovo. Here too, the court considered it a mitigating circumstance that the defendant pleaded guilty, expressed

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<sup>382</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.6 Mitigating circumstances, Table 19: Frequency of consideration of mitigating circumstances during sentencing across defendants.

<sup>383</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.1.1 Victims withdrawing from prosecution.

<sup>384</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.6 Mitigating circumstances, Table 19: Frequency of consideration of mitigating circumstances during sentencing across defendants.

<sup>385</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.6 Mitigating circumstances, Table 19: Frequency of consideration of mitigating circumstances during sentencing across defendants and Figure 12: Consideration of mitigating circumstances during sentencing across all defendants.

<sup>386</sup> Supreme Court of Kosovo, Sentencing Guidelines (previously cited), p. 124.

<sup>387</sup> Supreme Court of Kosovo, Sentencing Guidelines (previously cited), p. 128.

<sup>388</sup> Supreme Court of Kosovo, Sentencing Guidelines (previously cited), p. 127.

<sup>389</sup> Supreme Court of Kosovo, Sentencing Guidelines (previously cited), pp. 127 & 31-32.

<sup>390</sup> Amnesty International report appendix (EUR 73/7124/2023), see section C.1 Structure of decisions of Kosovo's Basic Courts on domestic violence.

<sup>391</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.9 Repeat offenders.

<sup>392</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.9 Repeat offenders.

<sup>393</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.7 Aggravating circumstances, Table 20: Frequency of consideration of aggravating circumstances during sentencing across defendants.

<sup>394</sup> Amnesty International report appendix (EUR 73/7124/2023), see Figure 17: Consideration of mitigating circumstances during sentencing of repeat offenders.

remorse and promised that he would not do it again. The decision does not elaborate on the reasons for establishing these mitigating circumstances.<sup>395</sup>

The most extreme example in the decisions studied is a case decided by the Basic Court of Gjilan in which a father had been convicted of domestic violence against his three minor daughters on 17 previous occasions and was given a custodial prison sentence of one year and four months and a 150 euro fine. This falls in the lower half of the sentencing range for these crimes in Kosovo. The court considered it a mitigating circumstance that the defendant pleaded guilty, expressed remorse and promised non-repetition. Aggravating circumstances included the fact that the defendant had been convicted of domestic violence 17 times before, the fear that he caused in his daughters and the dangerousness of the criminal offence. However, the court did not consider it an aggravating circumstance that the criminal offence was committed against children.<sup>396</sup>

The review of court decisions confirms that courts did not always establish violence against or in the presence of children as an aggravating circumstance, even though it was established as a fact in the decisions. In a total of 28 cases (84.8%) the courts did not consider it as an aggravating circumstance that the defendant was violent in front of or against children.<sup>397</sup> Of those, in a total of 10 cases (30.3%), it was not considered as an aggravating circumstance that the defendant had been violent involving children, but it was considered as a mitigating circumstance that the defendant had children.<sup>398</sup> This sentencing practice contradicts the Sentencing Guidelines of the Supreme Court of Kosovo which, for example, advises courts to consider it an aggravating factor when a child witnessed violence.

The insufficient or absent reasoning in judgments appears to be a long-standing issue, as one of the aims of the Sentencing Guidelines adopted in 2018 was to specifically address these gaps and to provide more clarification on the assessment of individual circumstances of dependence in sentencing.<sup>399</sup>

The Criminal Code of Kosovo allows courts to order perpetrators to undergo rehabilitation programmes; however, programmes for working with perpetrators of domestic violence are not yet available. The Ministry of Justice announced in May 2023 that the National Programme for treatment of perpetrators of domestic violence and gender-based violence would be finalized in September 2023.<sup>400</sup>

Kosovo is obliged to take necessary legislative or other measures to ensure that offences covered in the Istanbul Convention, including domestic violence, “are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness”.<sup>401</sup> Under the obligation of due diligence, Kosovo must take all appropriate measures not only to prevent and prosecute, but also to punish non-state actors for their acts or omissions that result in gender-based violence against women. The failure or omission to issue sentences that are commensurate with the gravity of these offences, “provides tacit permission or encouragement to perpetrate acts of gender-based violence against women” and constitutes a human rights violation.<sup>402</sup>

## 10.3 SOME SURVIVORS CONSIDERED PERPETRATORS OF INTIMATE PARTNER VIOLENCE

A lack of understanding of gender-based violence can lead to police, prosecutors and judges misidentifying acts of self-defence by survivors, leading to their arrest, prosecution and conviction alongside their abusers. This practice can have a devastating impact on survivors at a time when they are most in need of support.

Amnesty International identified six court decisions of intimate partner violence in the review of the systematic sample, in which the perpetrator and the victim were both charged and found guilty of domestic violence-related criminal offences.<sup>403</sup> An analysis of the factual circumstances in these decisions suggests that the first victim, which in all cases studied was a woman, may have responded to the violence from the

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<sup>395</sup> Basic Court of Peja, *Judgment P.nr.559/20*, 19 July 2022, [peje.gjyqesori-rks.org/wp-content/uploads/verdicts/PE\\_P\\_2020-105859\\_SQ.pdf](https://peje.gjyqesori-rks.org/wp-content/uploads/verdicts/PE_P_2020-105859_SQ.pdf)

<sup>396</sup> Basic Court of Gjilan, *Judgement*, 2022. The specifics of the decision such as case number or date are not revealed here to preserve the privacy of the victims, since all three names of the victims are revealed in the judgement published in the web page of the court.

<sup>397</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.8 Violence involving children, Table 20: Frequency of consideration of aggravating circumstances during sentencing across defendants.

<sup>398</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5.8 Violence involving children.

<sup>399</sup> Supreme Court of Kosovo, *Sentencing Guidelines* (previously cited), p. 4.

<sup>400</sup> Ministry of Justice, “Haxhiu: Programi Kombëtar për trajtimin e kryerësve të dhunës në familje dhe dhunës ndaj grave dhe vajzave do të finalizohet deri në shtator”, 10 May 2023, [md.rks-gov.net/page.aspx?id=1.15.3024](https://md.rks-gov.net/page.aspx?id=1.15.3024)

<sup>401</sup> Istanbul Convention (previously cited), Article 45.

<sup>402</sup> CEDAW Committee, *General Recommendation No.35* (previously cited), para. 24(2(b)).

<sup>403</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.1.5 Victims considered defendants.

original perpetrator in self-defence. Nevertheless, only one of these decisions examined and rejected this possibility, while the others did not even consider it. For example, in a case decided by the Basic Court in Prizren in 2019, a man known as E.K. assaulted his wife. He “punched her in the face and hit her with an umbrella on her head” causing injuries, “while she physically assaulted the injured party/accused E.K. by scratching him with her nails.” E.K. was found guilty of domestic violence and light bodily injury and his wife was found guilty of domestic violence and assault. Both pleaded guilty, were found guilty and each of them received a suspended sentence of five months. The court found no aggravating circumstances when sentencing E.K. although he assaulted his wife first and used an umbrella to beat her. The court also did not provide any reasoning behind issuing the same sentence for both parties and it did not consider rejecting the guilty plea due to self-defence.<sup>404</sup>

In three out of six cases, both the victim and the perpetrator pleaded guilty to the charges. However, this does not exempt judges from the responsibility to verify that the admission of guilt is supported by the facts in the indictment and evidence presented by the prosecution and testimonies of witnesses, or the parties accused.<sup>405</sup>

In two intimate partner violence decisions reviewed by Amnesty International, the court established, based on the facts presented by the prosecution in the indictment, that the man and the woman “attacked each other”. In both cases the first perpetrator listed in the decision is the man.<sup>406</sup> Neither of the decisions provides any justification about who started the violence or considers the broader context about who has power in the relationship, and both the man and the woman are given the same sentence. According to Kosovo’s Criminal Procedure Code, when the injured party has also committed a criminal offence against the accused, a joint criminal procedure should be held.<sup>407</sup>

Law enforcement, prosecution and courts should have a gendered understanding of intimate partner violence and recognize the dynamics of power and control used by abusers against their victims including when survivors might have acted in self-defence in the broader context of previous violence.<sup>408</sup> One such attempt to control may be the use of police and criminal charges by the perpetrator to intimidate their partner or former partner.<sup>409</sup> “Edona”, a survivor from Drenas, told Amnesty International that her ex-husband and family in-law, against whom she had an active court protection order preventing them from directly contacting or going near her, reported her for domestic violence to the police multiple times. Police officers would come to her house and ask her to go to the station to give a statement. “I told the police officer, the person who called you has a protection order and cannot come near me.” To “Edona’s” knowledge, no official charge was brought against her, but she said she felt harassed.<sup>410</sup>

Luljeta Aliu, a survivor of domestic violence who was leading an NGO that provides free legal aid to survivors told Amnesty International: “We have had several cases where survivors of domestic violence are falsely charged with domestic violence either by their husbands or their in-laws. This is a strategy used by perpetrators to undermine the position of their victims.”<sup>411</sup>

Survivors of domestic violence who have themselves been charged with domestic violence-related offences may face prejudice and disbelief by state institutions and other difficulties in accessing justice. According to Kosova Women’s Network, the Victim Advocacy and Assistance Office refused to file a request for a protection order on behalf of a survivor against her husband, because there was a report of domestic violence against her from her mother-in-law. “We hired a lawyer who requested a protection order directly from the court and it was approved [...] The charges of domestic violence made by the mother-in-law were later dismissed by the court due to lack of evidence,” Adelina Berisha from Kosova Women’s Network told Amnesty International.<sup>412</sup>

Previous research by Amnesty International on intimate partner violence in another country context indicates that survivors of domestic violence who call the police for help and are themselves arrested for domestic violence or other criminal offences may be deterred from reporting to the police in future.<sup>413</sup> The CoE’s training tool for judges and prosecutors in Kosovo advises them to look for potential evidence that may

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<sup>404</sup> Basic Court of Prizren, *Judgment P.nr.1137/19*, 7 November 2019.

<sup>405</sup> Criminal Code of Procedure, Article 242.

<sup>406</sup> Basic Court of Pristina, *Judgment P.nr.4585/2017*, 4 January 2018; Basic Court of Peja, *Judgment P.nr.848/19*, 11 June 2020.

<sup>407</sup> Criminal Code of Procedure, Article 35(2).

<sup>408</sup> CoE, *Training Resource Tool for Prosecutors and Judges in combating violence against women and domestic violence* (previously cited), p. 24.

<sup>409</sup> See Amnesty International, *Fragmented and unequal: A justice system that fails survivors of intimate partner violence in Louisiana, USA* (Index: AMR 51/1160/2019), 24 October 2019, [amnesty.org/en/documents/amr51/1160/2019/en/](https://www.amnesty.org/en/documents/amr51/1160/2019/en/) p. 11.

<sup>410</sup> Interview with “Edona” (name changed for anonymity), August 2022.

<sup>411</sup> Interview with Luljeta Aliu, May 2022.

<sup>412</sup> Interview with Adelina Berisha, 1 June 2022.

<sup>413</sup> Amnesty International, *Fragmented and unequal: A justice system that fails survivors of intimate partner violence in Louisiana* (previously cited), p. 70.

include photographs of the suspect's injuries such as "offensive injuries or injuries inflicted in self-defence by the victim".<sup>414</sup> This may be a legitimate way to establish whether there is a case of self-defence and to determine the guilt of the perpetrator.

The Kosovo Justice Academy should ensure that law enforcement, prosecutors and judges are trained and equipped to address cases of intimate partner violence or violence against women in the family and are able to identify the use of self-defence in order to minimize dual or wrongful arrest of victims. Law enforcement officers should be required to give a detailed explanation for any dual arrest in cases of domestic violence and provide clear evidence supporting the arrest of both partners. The report should be reviewed by a supervisor before it goes to the prosecutor's office. Prosecutors should carefully examine criminal reports from the police in such cases and examine whether there may have been use of self-defence.

Courts should carefully scrutinize the facts and evidence in intimate partner violence cases and examine indictments even in cases where both parties plead guilty. They should carefully assess whether violent acts perpetrated in response to violence constitute self-defence, duly taking into account gender-based power dynamics, and their intersections with other inequalities, between intimate partners. Courts, prosecutors and the police should collect and publish data on dual arrests and convictions in cases of domestic violence. This data should be disaggregated by gender, ethnicity and the relationship between those arrested.

## 10.4 COURT JUDGMENTS REVEAL VICTIMS' NAMES IN VIOLATION OF THEIR RIGHT TO PRIVACY

Amnesty International's review of judgments indicated that the courts have made public the personally identifying information of the victims or perpetrators in 13.2% of the judgments that are available on the courts' web pages.<sup>415</sup>

Publishing personal information of victims of domestic violence is a violation of their right to privacy. The Kosovo Judicial Council and courts should rigorously review all published decisions and remove personal information, or other information that makes the victims identifiable, such as the name of the perpetrator, their phone number and other indirectly identifying information.

## 10.5 PROPOSED CHANGES TO THE CRIMINAL CODE AND CRIMINAL PROCEDURE CODE CONTRARY TO INTERNATIONAL HUMAN RIGHTS LAW

Amnesty International is concerned that some proposed amendments to the Criminal Code and the Criminal Code of Procedure<sup>416</sup> concerning treatment of alleged perpetrators of domestic violence, sexual assault, and rape are not in line with international human rights law and standards. Among others, the changes would oblige courts to order pre-trial detention for any alleged perpetrator of domestic violence or rape without applying any criteria for reasonable suspicion of having committed a criminal offence, and judgments in cases of rape, sexual assault and domestic violence would be published revealing the full names of the perpetrators, indirectly disclosing also the identities of the victims.

A report by the NGO Kosovo Law Institute criticized the proposed changes as "repressive measures" in violation of the Constitution of Kosovo, the ECHR and the court practice of the ECtHR. It further criticized the government's decision not to conduct public consultations arguing that this violated the Istanbul Convention, which requires Kosovo to undertake necessary legislative and other measures to address domestic violence and violence against women with comprehensive and coordinated policies, with all relevant actors, including civil society organizations.<sup>417</sup> At the time of writing, both draft laws on changing the Criminal Code and the Criminal Code of Procedure were pending before the Assembly of Kosovo.

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<sup>414</sup> CoE, *Training Resource Tool for Prosecutors and Judges in combating violence against women and domestic violence* (previously cited), p. 52.

<sup>415</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.6 Privacy.

<sup>416</sup> Government of the Republic of Kosovo, Draft Law No.X/L-096 on Amending and Supplementing the Criminal Procedure Code No.08/L-032, [kuvendikosoves.org/Uploads/Data/Documents/PLperndryshimineKoditteprocedurespenale\\_AX8qBt4nqH.pdf](https://kuvendikosoves.org/Uploads/Data/Documents/PLperndryshimineKoditteprocedurespenale_AX8qBt4nqH.pdf)

<sup>417</sup> Kosovo Law Institute, "Repressive measures for the protection of women (analysis of the Draft Law on Amending and Supplementing the Criminal Code and Criminal Procedure Code)", November 2022, [kli-ks.org/masat-repressive-per-mbrojtjen-e-grave/](https://kli-ks.org/masat-repressive-per-mbrojtjen-e-grave/), p. 5.

Amnesty International urges the Kosovo authorities to include civil society organizations and survivors of domestic violence in the process of developing necessary legislative measures or other measures to combat all forms of violence against women and domestic violence. Any changes to the Criminal Code and Criminal Code of Procedure should be in line with international human rights law and standards.

## 10.6 REPARATION FOR SURVIVORS OF DOMESTIC VIOLENCE ALMOST NON-EXISTENT

Survivors of domestic violence in Kosovo face many barriers in accessing reparations for the harm suffered. Although Kosovo's legal framework offers survivors pathways to seek damage compensation from the perpetrator or from the state, Amnesty International's research shows that, in practice, compensation for survivors of domestic violence remains evasive because of the failure to implement the law and the lack of information for survivors.

### 10.6.1 NO COMPENSATION FOR SURVIVORS OF DOMESTIC VIOLENCE FROM CRIMINAL COURTS

Persons suffering harm from criminal offences, including survivors of domestic violence, can seek damage compensation from perpetrators within criminal court proceedings or through a separate lawsuit in civil court proceedings.<sup>418</sup> Courts may order perpetrators found guilty to pay compensation to victims for the financial, physical and emotional harm caused by the criminal offence.<sup>419</sup> Despite this legal basis and the low number of requests for compensation (only 13 (5.1%) out of 255 survivors asked for compensation),<sup>420</sup> courts did not award compensation in any of the 197 sampled domestic violence criminal decisions reviewed for this report. A total of 146 survivors (57.3%) said they do not want compensation and for 96 survivors there is no information available in court decisions.<sup>421</sup>

Courts may refer victims to civil court proceedings or to file a request at the Programme for Compensation of Victims if deciding on their requests for compensation would “considerably prolong criminal proceedings” or when the “data collected in the criminal proceedings does not provide a reliable basis for either a complete or a partial award”.<sup>422</sup> The review of decisions revealed that courts referred survivors to civil proceedings in 119 judgments (54.6%).<sup>423</sup> Nevertheless, in nearly all cases, courts did not give reasons for not taking a decision on the compensation request. Courts elaborated reasons for referral in only 3 out of 13 cases (23.1%) where there was a compensation request.<sup>424</sup>

According to the Kosova Women's Network, victims are often unaware of their right to seek compensation in criminal proceedings as victim advocates usually do not inform them about this opportunity, despite their obligation to do so.<sup>425</sup>

Survivors of domestic violence in Kosovo must go through numerous, stressful, arduous, costly and, often lengthy, court processes including obtaining protection orders, child custody, divorce, property division and criminal court proceedings. Referring them to civil court proceedings to seek damage compensation adds yet another step, which makes seeking justice and remedies more burdensome and expensive for victims. According to Ariana Qosaj-Mustafa, a gender expert who has worked on domestic violence in Kosovo, survivors rarely decide to seek compensation through civil litigation: “In the cases that I have monitored, none of the survivors followed up with civil court proceedings. They are discouraged from starting another process.” She described the failure to use legal provisions that allow compensation in criminal procedures as

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<sup>418</sup> Law No.04/L-077 on Obligational Relationships, [gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2828](https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2828), Articles 169-189, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=61759> <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>

<sup>419</sup> Criminal Code of Procedure Nr.08/L-032 (previously cited), Articles 63(19) & 457-462.

<sup>420</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.1.4 Damage compensation award requests.

<sup>421</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.1.4 Damage compensation award requests, Table 10: Distribution of information on victims asking for damage compensation awards.

<sup>422</sup> Criminal Code of Procedure Nr.08/L-032, (previously cited), Articles 457(1) & 462(2).

<sup>423</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.1.4 Damage compensation award requests.

<sup>424</sup> The courts elaborated on the compensation award requests of three victims, which was 23.1% of all victims who had requested damage compensation.

<sup>425</sup> Kosova Women's Network, “From Laws to Action – Monitoring the Institutional Response to Gender-based Violence in Kosovo”, 7 May 2021, [womensnetwork.org/publications/from-laws-to-action-2/](https://womensnetwork.org/publications/from-laws-to-action-2/), p. 89.



“a missed opportunity”.<sup>426</sup> Out of 20 survivors interviewed by Amnesty International, only two said they were planning to initiate civil litigation against their abusers to seek damage compensation.<sup>427</sup>

International human rights law requires Kosovo to provide reparation for acts of gender-based violence perpetrated by non-state actors.<sup>428</sup> Reparation must be timely, comprehensive and proportionate to the gravity of the harm.<sup>429</sup> Practices which place the responsibility on the victim to request compensation through civil courts may result in delays, additional costs and the need to testify again and face the defendant, which may act as a deterrent to pursuing legal action.<sup>430</sup> GREVIO has stressed that authorities should use the legal options available to issue damage compensation within criminal proceedings.<sup>431</sup>

Kosovo’s National Strategy on Prevention of Domestic Violence identifies as a key principle that “[l]aws should allow criminal penalties to include an order of compensation and return by the perpetrator to the victim or her heirs”.<sup>432</sup> However, Kosovo’s Criminal Procedure Code already allows for compensation orders to be issued within criminal procedure.<sup>433</sup> This report’s findings show that the main cause of compensation not being awarded within criminal procedures is the lack of implementation of existing legal provisions. This court practice is deterring survivors from seeking their rights and impeding their empowerment in removing themselves from abusive situations.

Kosovo’s authorities should take further measures to guarantee access to compensation for survivors of domestic violence, in particular by ensuring that courts use existing legislation to award compensation in criminal court proceedings. Additionally, victim advocates should receive additional training to better inform and assist victims of domestic violence in requesting compensation within criminal proceedings.

## 10.6.2 DIFFICULTIES IN RECEIVING REPARATIONS FROM THE VICTIM COMPENSATION FUND

Survivors of domestic violence who seek compensation from the perpetrator in criminal proceedings and do not receive it can request compensation from the state for the psychological and physical harm suffered from the criminal offence.<sup>434</sup> However, Amnesty International’s findings show that survivors rarely receive state compensation, mostly due to the lack of access to information and difficulties collecting the documentation needed for applying.<sup>435</sup>

Established in 2015, the government-run Fund for Compensation of Victims of Crimes is mandated to grant compensation to victims and their dependents for criminal offences which cause aggravated bodily injury, psychological damage or death.<sup>436</sup> There are two types of compensation available. Victims who rely on social support or face other financial difficulties can apply for *immediate* compensation of up to 3,000 euros and expenses for treatment of physical and psychological harm.<sup>437</sup> *Regular* compensation is available to victims after they have received the final judgment in a criminal procedure and if they have sought compensation but have not received it or can prove that they had no opportunity to file the request.<sup>438</sup> Regular compensation covers physical and psychological harm is normally capped at 5,000 euros.<sup>439</sup> Exceptionally, the Commission of the Fund for Compensation of Victims of Crimes may grant compensation of up to 10,000 euros.<sup>440</sup>

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<sup>426</sup> Amnesty International, Online interview with Dr Ariana Qosaj Mustafa, June 2022.

<sup>427</sup> Amnesty International, Interviews with survivors of domestic violence August-December 2022.

<sup>428</sup> Istanbul Convention (previously cited), Article 5(2).

<sup>429</sup> Istanbul Convention (previously cited), Articles 5(2) & 30. Basic Principles and Guidelines on the Right to a Remedy and Reparation (previously cited); CEDAW Committee, General Recommendation No.35 (previously cited), para. 33(b); Report of the Special Rapporteur on violence against women, its causes and consequences, 2010, UN Doc. A/HRC/14/22, paras 12-85.

<sup>430</sup> CoE, *Assessment of the alignment of Kosovo’s laws, policies and other measures with standards of the Istanbul Convention* (previously cited), para. 178.

<sup>431</sup> CoE, *Assessment of the alignment of Kosovo’s laws, policies and other measures with standards of the Istanbul Convention* (previously cited).

<sup>432</sup> Ministry of Justice, National Strategy on Protection against Domestic Violence and Violence against Women 2022-2026 (previously cited), p. 36.

<sup>433</sup> Criminal Code of Kosovo, Article 59(2.2); Criminal Code of Procedure, Article 63(1.19).

<sup>434</sup> Law No.08/L-109 on Crime Victim Compensation, 2 November 2022, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=66178>, Article 9(3).

<sup>435</sup> Amnesty International, Interview with Adelina Berisha, June 2022; Information from an official from at the Victim Compensation Fund, February 2023.

<sup>436</sup> Law on Crime Victim Compensation (previously cited).

<sup>437</sup> Law on Crime Victim Compensation, Article 8(3).

<sup>438</sup> Law on Crime Victim Compensation, Articles 8 & 9.

<sup>439</sup> Law on Crime Victim Compensation, Article 11(4).

<sup>440</sup> Law on Crime Victim Compensation, Article 11(5).

The 2022 Law on Compensation of Victims of Crimes extended the timeline within which victims can apply for compensation<sup>441</sup> and allowed access to immediate compensation for domestic violence victims.<sup>442</sup>

The Fund for Compensation of Victims of Crimes is financed by the Budget of the Republic of Kosovo, voluntary donations and contributions from perpetrators of violent crimes who are found guilty and ordered by courts to pay a symbolic sum to the fund.<sup>443</sup> Most defendants, 181 (83%) in the judgments reviewed, were ordered to make a payment to the fund, usually of an amount of 30 euros.<sup>444</sup> However only 13 survivors (5.1%) asked the court for damage compensation awards and none of their requests were granted and instead they were referred to civil proceedings for compensation.<sup>445</sup>

The number of survivors of domestic violence receiving compensation from the fund remains low. Government data shows that, in the last five years, only 50 survivors of domestic violence applied to the fund and only 26 received compensation from it. The amounts awarded ranged from 178 euros to 6,290 euros.<sup>446</sup>

One of the factors influencing the low compensation rates for victims of domestic violence may be their lack of information on their rights and the process of seeking compensation. According to an official from the Fund for Compensation of Victims of Crimes, victims are unaware that by failing to request compensation in criminal court, they lose their right to compensation from the fund. Many applications are rejected because they do not fulfil this condition. As outlined, only 5% of survivors Amnesty International identified in the court decisions would qualify to apply for compensation from the fund.<sup>447</sup> Additionally, victims lack awareness that they need to save their invoices and receipts to claim compensation for medical expenses.<sup>448</sup>

Adelina Berisha from the Kosova Women's Network argues that victim advocates often do not inform survivors of domestic violence about their right to seek compensation: "As a result, most women then are not able to use this opportunity".<sup>449</sup> The CoE/GREVIO report also highlights the lack of information for survivors and difficulties in obtaining documentation as likely obstacles to receiving compensation from the Fund for Compensation of Victims of Crimes.<sup>450</sup>

According to the Istanbul Convention, Kosovo is responsible for ensuring adequate state compensation to "those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources", within a reasonable timeframe.<sup>451</sup> Additionally, Kosovo must take measures to ensure that victims receive "adequate and timely information on available support services and legal measures in a language they understand".<sup>452</sup> GREVIO recommended that the Kosovo authorities ensure that "victims are systematically informed of their right to claim compensation and the procedures to be followed".<sup>453</sup>

In its National Strategy on Protection against Domestic Violence (2022-2026), the Government of Kosovo has committed to informing the public about the Programme for Compensation of Victims of Crime. However, the strategy allocates a total of just 7,000 euros for this purpose across 2022 and 2023.<sup>454</sup> The programme has so far only been promoted during the 16 days of activism campaign.<sup>455</sup>

The new Criminal Code of Procedure of February 2023 included a positive development obliging courts to inform victims that, if they do not seek compensation in criminal proceedings, they lose their right to seek compensation from the Fund for Compensation of Victims of Crimes.<sup>456</sup> Nevertheless, considering the low number of survivors of domestic violence receiving compensation from the fund, more continuous efforts are

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<sup>441</sup> Law on Crime Victim Compensation, Article 29(1-2).

<sup>442</sup> Law on Crime Victim Compensation, Article 8(1.4).

<sup>443</sup> Law on Crime Victim Compensation, Article 36(1-3).

<sup>444</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.5 Sentencing, Table 17: Frequency distribution of orders across defendants.

<sup>445</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.1.4 Damage compensation award requests.

<sup>446</sup> Amnesty International, Official response from the Ministry of Justice to a request for information by Amnesty International, 21 February 2023.

<sup>447</sup> Amnesty International report appendix (EUR 73/7124/2023), see section B.1.4 Damage compensation award requests.

<sup>448</sup> Amnesty International, Information from official at the Fund for Compensation of Victims of Crimes (previously cited).

<sup>449</sup> Amnesty International, Interview with Adelina Berisha, 1 June 2022.

<sup>450</sup> CoE, *Assessment of the alignment of Kosovo's laws, policies, and other measures with standards of the Istanbul Convention* (previously cited), para. 179.

<sup>451</sup> Istanbul Convention (previously cited), Article 30(2-3).

<sup>452</sup> Istanbul Convention (previously cited), Article 19.

<sup>453</sup> CoE, *Assessment of the alignment of Kosovo's laws, policies, and other measures with standards of the Istanbul Convention* (previously cited), para. 183.

<sup>454</sup> Ministry of Justice, National Strategy on Protection against Domestic Violence and Violence against Women 2022-2026 (previously cited), p. 98.

<sup>455</sup> Ministry of Justice, *Annual Report on the implementation of the national strategy on protection against domestic violence and violence against women 2022-2026*, March 2023.

<sup>456</sup> Criminal Code of Procedure, Article 459(4).

needed to ensure survivors of domestic violence are informed about their right to seek compensation and the procedures they must follow.

The Kosovo authorities should develop and disseminate accessible information on the Victim Compensation Fund to survivors of domestic violence, in a language and format that they understand, and to ensure that victim advocates, prosecutors and courts inform all victims of their right to seek compensation and the application process.

Additionally, one legal provision that was important to ensuring restitution for victims of crimes, which includes also victims of domestic violence, was entirely removed from the past Criminal Code. Previously, in cases where the court could not order restitution directly from the guilty defendant, the court could make an order of restitution directly to the coordinator of the Victim Compensation Fund.<sup>457</sup> This now repealed procedure made it easier for victims of crimes to receive restitution and was in line with international human rights standards and recommendations from GREVIO.<sup>458</sup> The Kosovo authorities should amend the new Criminal Code of Procedure so that courts can order the Fund for Compensation of Victims of Crimes to pay restitution to victims of crimes directly, in cases when perpetrators are unable to pay. Victim advocate officers should undergo training to better assist survivors of domestic violence and other victims of crimes to use all available legal avenues to exercise their right to compensation.

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<sup>457</sup> The now repealed Criminal Code of Procedure 04/L-123 was applicable until February 2023; see [gzk.rks-gov.net/ActDetail.aspx?ActID=2861](http://gzk.rks-gov.net/ActDetail.aspx?ActID=2861), Article 62(1.5).

<sup>458</sup> CoE, *Assessment of the alignment of Kosovo's laws, policies, and other measures with standards of the Istanbul Convention* (previously cited).

# 11. PREVENTION

Kosovo's government does not seem to sufficiently prioritize measures to prevent domestic violence and violence against women.<sup>459</sup> Although the government has initiated public awareness-raising campaigns, there are no measures or policies in place to address structural factors contributing to gender-based violence, and there has been minimal progress in revising textbooks to introduce rights-based education.

Some efforts have been made to conduct awareness-raising campaigns, particularly through lectures in primary and secondary schools by the Kosovo Police and the distribution of flyers and public awareness messages.<sup>460</sup> Nevertheless, the government has failed to implement some of the key preventive measures included in its National Strategy, including activities aimed at raising awareness about domestic violence and violence against women among vulnerable groups of women and girls.

School textbooks still propagate gender stereotypes through incorrect statements about men and women, sexuality and gender identity.<sup>461</sup> A 2017 report by Youth Initiative for Human Rights (YIHR) analysing secondary-level school textbooks in Kosovo found over 100 instances of discriminatory and exclusive language, primarily on the basis of ethnicity, gender, sexual orientation or gender identity.<sup>462</sup>

One such example is the standard psychology textbook for high-school students 17-18 years old *Psychology 11* – which was still being sold in Pristina in June 2023. The book contains statements such as: “the two brains are wired differently: male brains to do and female brains to talk,” as well as “the differentiated male brain finds it easier to face multiple tasks simultaneously, such as talking while building something.”<sup>463</sup> Another section states: “we know that the menstrual cycle can affect the mathematical and verbal performance of women”,<sup>464</sup> and “it is common that [men are] competitive, dominant and persistent. For women, it is common that they are anxious, depressed, have low self-esteem and are indirectly verbally aggressive (for example, they disseminate unfounded gossip).”<sup>465</sup> In its chapter on “sexual disorders” it states: “transvestite fetishism is related to finding sexual pleasure through dressing as the opposite sex.”<sup>466</sup>

Such unfounded and scientifically inaccurate statements propagate harmful negative stereotypes about gender roles and transgender people and reinforce harmful ideas about the inferiority of women and transgender prejudice, which are root causes of violence against women and LGBTI individuals. Under international human rights law and standards, including the Istanbul Convention, Kosovo is obliged to take measures to “promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men.”<sup>467</sup>

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<sup>459</sup> Amnesty International, Online interview with Marigona Shabiu, Director at the Youth Initiative for Human Rights, May 2022; Interview with Kadri Gashi, Director at NGO SIT, August 2022; Interview with Zana Hamiti, director of the shelter in Pristina, May & August 2022.

<sup>460</sup> Ministry of Justice, *Annual Report on the implementation of the National Strategy on Protection against Domestic Violence and Violence against Women* (previously cited), p. 16.

<sup>461</sup> YIHR, *Discriminatory language in school textbooks – An analysis of upper secondary level school textbooks in Kosovo*, November 2017, p. 9; Amnesty International, Online interview with Marigona Shabiu, May 2022.

<sup>462</sup> YIHR, *Discriminatory language in school textbooks – An analysis of upper secondary level school textbooks in Kosovo*, November 2017, p. 9.

<sup>463</sup> Pajazit Nushi, Neki Juniku & Dashmir Bërçulli, *Psikologjia 11*, 2017, p. 80. See also: YIHR, *Discriminatory language in school textbooks – An analysis of upper secondary level school textbooks in Kosovo* (previously cited), p. 14; Kosovo 2.0, “Time to review textbooks”, January 2018, [kosovotwopointzero.com/en/time-review-textbooks/](https://kosovotwopointzero.com/en/time-review-textbooks/). A salesperson confirmed to Amnesty International researchers that it is still being purchased and used in schools.

<sup>464</sup> *Psikologjia 11* (previously cited), p. 78. See also: YIHR, *Discriminatory language in school textbooks – An analysis of upper secondary level school textbooks in Kosovo* (previously cited), p. 15.

<sup>465</sup> *Psikologjia 11* (previously cited), p. 82.

<sup>466</sup> *Psikologjia 11* (previously cited), p. 85.

Roma, Ashkali and Kosovo-Egyptian communities are facing higher levels of structural inequality, poverty, low levels of education and unemployment than the majority population. In a context where these communities experience high levels of marginalisation, survivors of domestic violence in these communities tend to not report violence, including domestic violence, to the police, because of the general lack of trust in the state institutions in Kosovo, economic dependence on their abusers and prejudice from the community against women who report their husbands. There is also lack of sufficient state efforts to reach out to these survivors and provide them with information on available services and support, let alone design any tailored services for their specific needs.<sup>467</sup> Child, early and forced marriages and <sup>467</sup>also more prevalent in Roma, Ashkali and Kosovo-Egyptian communities.<sup>468</sup> Despite the urgency of the situation, another commitment that the government failed to<sup>468</sup>in 2022 was organizing “an awareness-raising campaign for parents to prevent early marriages”.<sup>469</sup>

Article 13 of the Istanbul Convention obliges states to conduct educational campaigns to “increase awareness and understanding among the general public of the different manifestations of all forms of violence” and provide “information on measures available to prevent acts of violence.” The CEDAW Committee recommends that states should also provide “age-appropriate, evidence-based and scientifically accurate comprehensive sexuality education for girls and boys,” and “target stereotyped gender roles and promote the values of gender equality and non-discrimination, including non-violent masculinities” through “[i]ntegration of content on gender equality into curricula at all levels of education, both public and private, from early childhood onwards and into education programmes with a human rights approach.”<sup>470</sup> Finally, states should encourage “the media to eliminate discrimination against women, including the harmful and stereotyped portrayal of women or specific groups of women, such as women human rights defenders”.<sup>471</sup>

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<sup>467</sup> European Commission, *Kosovo 2022 Report* (previously cited), p. 41.

<sup>469</sup> Ministry of Justice, *Annual Report on the Implementation of the National Strategy on Protection against Domestic Violence and Violence against Women* (previously cited), p. 20.

<sup>470</sup> CEDAW Committee, General Recommendation No.35 (previously cited), para. 30(b)(i).

<sup>471</sup> CEDAW Committee, General Recommendation No.35 (previously cited), para. 30(d).

# 12. IN THEIR OWN WORDS

Amnesty International asked survivors of domestic violence what should change in how the authorities deal with cases of domestic violence. Many survivors said that the state needs to do more to inform survivors about their rights and the available state support services for leaving domestic abuse situations. They also emphasized the need for state officials to have a more humane and professional approach to survivors of domestic violence.

“Ana” from Pristina: “What institutions could do is inform women, before anything happens, that if something happens to you, you have an open door and support from the state. You don’t need to worry about your children, you don’t need to worry about where to go... if you want to hide, you can. If you want, you can stay jobless for a while... even if your family does not support you, even if you cannot return to your father’s house, institutions will support you.”<sup>472</sup>

“Leartha”: “The first thing that a trans person survivor of domestic violence would need from state institutions is attention. Attention from the police, from the social services. Secondly, she needs shelter and words of encouragement because she has been maltreated, regardless of whether she suffered violence at the hands of her husband or her other family members. And she needs to know what her rights are, the police and others need to inform her about her rights.”<sup>473</sup>

“Nita” from Pristina: “Police officers should be trained on how to interview domestic violence survivors and also be informed about the different forms of violence, particularly psychological violence... Police officers should have a softer approach and not a threatening and rigid one. They should not make you feel threatened or make you feel worthless, when you are trying your best to explain what happened and they come to you with their prejudicial opinions, this shouldn’t happen.”<sup>474</sup>

“Pati”, a trans woman from Prizren: “Police should be softer and friendlier to LGBTI people. We are also human beings; we have hearts and minds and deserve to be protected and live freely.”<sup>475</sup>

“Diella” from Pristina: “Social workers should be trained on how to work with victims, they should know that a person who is not a victim doesn’t go there [for help], if they see a woman that looks strong, that doesn’t mean she is not a victim. They should believe what victims tell them.”<sup>476</sup>

“Syzana” from Pristina: “I want a solution from institutions so that I can have my own life. I want a flat of my own, I don’t need a big flat, just a small one with a kitchen, a bathroom and a room. I don’t want to go back [to him].”<sup>477</sup>

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<sup>472</sup> Interview with “Ana” (name changed for anonymity), August 2022.

<sup>473</sup> Interview with “Leartha” (name changed for anonymity), November 2022.

<sup>474</sup> Interview with “Nita”, (name changed for anonymity) September 2022.

<sup>475</sup> Interview with “Pati” (name changed for anonymity), October 2022.

<sup>476</sup> Interview with “Diella” (name changed for anonymity), September 2022.

<sup>477</sup> Interview with “Syzana” (name changed for anonymity), September 2022.

Out of 20 survivors interviewed for this report 19 had endured violence for many years before seeking help.<sup>478</sup> For 30 years, “Mejrem” suffered continuous brutal physical, psychological, economic and sexual violence at the hands of her husband. She finally reported him after he tried to kill her, causing severe injuries on her head and body. “For 30 years I ate more blood than bread,” she said. Five survivors interviewed had reported their cases only when they feared that their abuser might kill them.<sup>479</sup>

When asked what advice they have to other survivors of domestic violence, nearly all said that they should report the violence to the police and leave the abuser immediately after the first incident of violence. However, they also mentioned that having financial support and alternative housing was a pre-condition that must be fulfilled before leaving a situation of domestic violence.

“Society can help a person in my situation, and it should help. The family can perhaps try within their possibilities to help out, but it is society that can help a person in my situation either financially or in other aspects such as through providing legal support for free,” said “Kaltrina” from Podujevë.<sup>480</sup>

“Nita” from Pristina: “As soon as you see that he starts playing with your mind or starts to belittle you and mess up your self-confidence, you must run! Leave him! But, before you leave, make sure you have a plan for your financial situation, you must know where you will be able to stay. And then start your life as if that bad part never happened to you!”<sup>481</sup>

“I would tell women who experience violence to not put up with it, but leave him, get out on your own! But we need help, we need a flat for a couple of months until we get ourselves together,” said “Gresa A”.<sup>482</sup>

Diana, a survivor of domestic violence and a single mother of two, confirmed: “The first step is financial independence. It helps if a woman has her own money. That said, when men fail to pay alimony, the state should step in and make those payments to women, so they can actually survive and not be at the mercy of the husbands. Then, it should be the state’s responsibility to go after the husbands to return the debt owed to the state.”<sup>483</sup>

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<sup>478</sup> Interviews with “Syzana”, “Edona”, “Gresa A”, “Eliza”, “Kaltrina”, “Dina”, “Filloreta”, “Maja”, “Vjollca”, “Gresa B”, “Diella”, “Nita”, “Andi”, “Pati”, “Merjem”, “Arjeta”, “Leara”, “Diana”, “Ana” (names changed for anonymity), August-December 2022.

<sup>479</sup> Interviews with “Mejrem”, “Diana”, “Nita”, “Kaltrina”, “Leara”, (names changed for anonymity), August-September 2022.

<sup>480</sup> Interview with “Kaltrina” (name changed for anonymity), August 2022.

<sup>481</sup> Interview with “Nita”, (name changed for anonymity) September 2022.

<sup>482</sup> Interview with “Gresa A” (name changed for anonymity), August 2022.

<sup>483</sup> Interview with “Diana” (name changed for anonymity), September 2022.

# 13. RECOMMENDATIONS

Despite government efforts to improve Kosovo's response to domestic violence – through further aligning the legal framework with international human rights standards and adopting a national strategy for prevention of domestic violence and violence against women – Amnesty International's research found that the existing policies are failing survivors in multiple ways. The state response is predominantly focused on the criminal justice system and survivors are encouraged to report violence to the police. At the same time, the system is failing to ensure survivors can exercise their rights in line with their needs, concerns and priorities due to key institutions being under resourced, understaffed and lacking professional capacity to handle such cases in a gender-sensitive way. Moreover, other crucial aspects of the response to domestic violence are being overlooked and neglected. These include the introduction of much-needed policies to provide survivors with sufficient support for as long as needed, such as prioritised access to social or public housing and vocational training and other support to empower them to live independently and free from violence in the long term. Another overlooked aspect is prevention, which is currently limited to sporadic public awareness campaigns but lacks a systematic approach. Such an approach should cover young people in school through the provision of comprehensive sexuality education or another form of a human rights-based education.

## **TO THE KOSOVO GOVERNMENT**

### *Concerning civil society and survivors' participation in law and policy development concerning domestic violence*

- Ensure that state policies in response to domestic violence are sufficiently survivor-centred and reflect the full range of survivors' concerns and needs, with respect to survivors' rights, dignity and agency. To this end, survivors' and civil society organizations meaningful participation should be ensured throughout the legal and policy development process or other measures to combat all forms of violence against women and domestic violence. Any changes to the Criminal Code and Criminal Code of Procedure should be in line with international human rights law and standards.

### *Concerning shelters*

- Ensure shelters across the country have sufficient capacity to accommodate all survivors who need protection, temporary accommodation, and support services, as per international human rights law and standards. To this end, ensure that shelters are adequately and consistently funded and resourced, and are available with a reasonable geographical spread proportionate to the population.
- Intensify efforts to establish the proposed new specialized shelter for LGBTI people. In the meantime, ensure that LGBTI survivors of domestic violence can access other safe accommodation, psychosocial and other support needed to be able to leave abusive families or partners.
- Consider establishing and supporting a national network of shelters and other support services to mainstream and improve service standards, operationalizing a national system of data collection, and creating opportunities for capacity building and exchange of knowledge and good practices.
- Ensure shelter rules and regulations respect survivors' rights and agency, and do not lead to secondary victimization.
- Ensure that shelters provide initial and ongoing training to their staff in conducting individual risk assessments and developing an individual security plan for each survivor, with a view to allowing



those with low-risk cases to contact their families and friends more frequently and without shelter's staff supervision.

#### ***Concerning prevention***

- Conduct public education campaigns to increase the general public's awareness and understanding of the different manifestations of all forms of gender-based violence and violence against women, as per the Istanbul Convention. To this end, also provide information on measures available to prevent acts of such violence.
- Encourage the media to eliminate gender discrimination and other forms of discrimination, including the harmful and stereotyped portrayal of women or specific groups of women, especially in reporting on cases of domestic violence and violence against women.

#### ***Concerning dual arrests***

- Collect and publish anonymised data on dual arrests and convictions in cases of domestic violence. This data should be disaggregated by gender, ethnicity and the relationship between those arrested, among other relevant characteristics.

#### ***Concerning access to information***

- Ensure that the Ministry of Health, Ministry of Justice and Ministry of Finance, Transfer and Labour, establish and maintain a specialized 24-hour helpline providing relevant information and referrals for survivors of domestic violence and violence against women, in line with the Istanbul Convention and commitments in the National Strategy for Protection against Domestic Violence and Gender-Based Violence (2022-2026). Ensure the helpline is free, anonymous, confidential, round-the-clock, available across the territory in all relevant languages and accessible formats, capable of providing counselling to victims, and operated by qualified, trained staff.

### **TO THE MINISTRY OF INTERNAL AFFAIRS AND KOSOVO POLICE**

#### ***Concerning police's handling of domestic violence cases***

- Ensure that the police are adequately trained to provide survivors with all necessary information about available protection mechanisms, support services and legal assistance.
- Ensure the police can provide a professional and gender-sensitive response when dealing with cases of domestic violence to avoid stigmatization and secondary victimization of victims during all legal proceedings, including during questioning, evidence collection and other procedures relating to the investigation. This requires a variety of measures, including:
  - targeted training of police officers and investigators on all forms of domestic violence, in particular psychological and economic violence, and the means and methods to identify it, investigate it and collect evidence; and
  - promoting survivor-centred and gender-sensitive approaches to interviewing victims and collecting testimonies.
- Ensure that everyone, regardless of sexual orientation, gender identity, gender expression or sex characteristics, can exercise their right to state protection from violence, discrimination and other harm, whether committed by state officials or by any individual or group.
- Ensure that anti-discrimination provisions become an integral part of the standard operating procedures of the police and that there are friendly and accessible complaint mechanisms for reporting mishandling of cases by the police.
- Ensure that all police officers dealing with cases of intimate partner violence and domestic violence, in addition to the mandatory training, receive regular training for continuous capacity building, designed in collaboration with organizations working with survivors. Among other things, such training should cover:
  - domestic legal provisions and the role of relevant institutions in the state's response to domestic violence;
  - understanding the root causes of violence, including the gender power dynamics within intimate partner violence, fuelled by structural and deeply entrenched gender

discrimination and inequality, and harmful gender stereotypes and norms which affect social attitudes and perceptions of violence, including within the police;

- a focus on the effects of trauma on the victims, and eliminating factors that cause revictimization; the importance of a gender-sensitive and survivor-centred approach and what it means in practice for the police; and
- an anti-discrimination perspective including information about LGBTI people's rights.
- Allow victims of domestic violence, particularly LGBTI victims, to report their cases in other police stations away from their place of residence, without applying the strict territorial competence of the police, as a safeguard against potentially biased treatment by the police.
- Ensure that protocols for dealing with cases of domestic violence and training programmes for law enforcement officers are monitored, reviewed and adjusted regularly to ensure their effectiveness.

#### ***Concerning protection orders***

- The Ministry of Justice should ensure the implementation of the Law on Electronic Supervision of Persons Whose Movement is Limited by a Court Decision, including by adequately funding its implementation.
- Police should ensure that protection orders are vigorously monitored and ensure that they are enforced.
- Police should ensure that survivors are properly informed of the wide range of measures available to them through protection orders, including the removal of the perpetrator from the common apartment/house as stated by Law for Protection against Domestic Violence the temporary measures of paying rent and alimony.

#### ***Concerning dual arrests***

- Require law enforcement officers to give a detailed explanation for any dual arrest in cases of domestic violence and provide clear evidence supporting the arrest of both partners. The report should be reviewed by a supervisor trained and knowledgeable in gender-based violence before it goes to the prosecutor's office.
- Collect and publish anonymised data on dual arrests and convictions in cases of domestic violence. This data should be disaggregated by gender, ethnicity and the relationship between those arrested, among other relevant characteristics.

### **TO THE MINISTRY OF JUSTICE**

#### ***Concerning access to information***

- Provide comprehensive and accessible information on the available services and resources for victims of domestic violence on an ongoing basis, through diverse channels, with specific efforts to reach out to survivors facing multiple and intersecting forms of discrimination, including survivors from Serb, Roma, Ashkali and Kosovo-Egyptian communities, LGBTI survivors, those living in remote or rural areas, and survivors with disabilities, among others.

#### ***Concerning survivor's access to reparations***

- Develop and disseminate accessible information about the Victim Compensation Fund to survivors of domestic violence, in a language and format that they understand, and ensure that victim advocates, prosecutors and courts inform all victims of their right to seek compensation and clearly sets out the application process and what is required.

#### ***Concerning legislation and policy development***

- Ensure civil society organizations and survivors of domestic violence are meaningfully consulted in the process of developing necessary legislative and policy measures, or other measures to combat all forms of violence against women and domestic violence.
- Ensure any changes to the Criminal Code and Criminal Code of Procedure are aligned with international human rights law and standards.

#### ***Concerning the Centers for Social Work***

- Ensure sufficient resources and ongoing capacity building for the staff of Centres for Social Work to deal with domestic violence cases sensitively, professionally, efficiently, without undue delays and with respect to the rights, dignity and agency of all survivors to prevent secondary victimization and to eradicate discriminatory practices and the application of harmful gender stereotypes. Such training should include knowledge and skills about prevention, detection and prosecution of domestic violence; survivor-centred approach and its practical implementation in cases of gender-based violence and domestic violence; harmful gender and other stereotyping; the gendered dynamics of violence against women and domestic violence; and harmful impact of children witnessing violence. Training should be developed in close consultation with survivors' organisations, women's rights organisations and LGBTI organizations and should reflect the context-specific concerns of survivors in Kosovo.
- Ensure that the staff of Centres for Social Work do not indirectly or directly, exert pressure on survivors to return to abusive situations or reconcile with their abusers.
- Develop and promote protocols and training to professionals to prevent and respond to forced marriages.

#### *Concerning survivor's access to reparations*

- Take further measures to guarantee access to reparations for survivors of domestic violence, in particular by ensuring that courts use existing legislation to award compensation in criminal court proceedings.

### **TO THE MINISTRY OF FINANCE, LABOUR AND TRANSFERS**

#### *Concerning shelters*

- As recommended by CoE GREVIO, provide appropriate, secure and sustainable funding for shelters to guarantee that they can deliver general and specialized services and support to survivors of domestic violence. Good practice includes ensuring such funding through multi-annual contracts which outline the applicable standards and conditions and provide for regular monitoring and reporting with regards to finance and implementation of standards.
- Provide funding to shelters for non-core activities such as public awareness-raising, advocacy, capacity building of staff and professional training of survivors hosted in the shelters.

#### *Concerning survivors' access to social protection*

- Ensure that measures are put in place to guarantee that survivors of domestic violence and their dependents are able to access their right to an adequate standard of living and work including through targeted social protection measures. Such measures should be accessible and eligibility criteria should factor in the lived reality of survivors, for example where the case may be pending in court, or where they are yet to file a police complaint.
- Ensure that there is a clear pathway for survivors of domestic violence out of abusive relationships. To this end, ensure that survivors and their dependents are supported with emergency housing and longer-term social housing where applicable. Survivors of domestic violence should be among those prioritized for allocation of social housing.
- Ensure that there are steps taken to implement the commitments in the National Strategy for Protection against Domestic Violence (2022-2026) to provide vocational training and facilitate access to employment opportunities for survivors of domestic violence.

### **TO THE MINISTRY OF EDUCATION**

#### *Concerning prevention*

- Provide mandatory, comprehensive, age-appropriate, gender-sensitive, evidence-based and scientifically accurate comprehensive sexuality education to pupils and students of all genders at all levels of education and those outside the education system.
  - This should include education about consent, bodily and sexual autonomy, and the right to bodily integrity.
  - It should also target harmful stereotypes about gender roles and promote the values of gender equality and non-discrimination, including non-violent masculinities, through integration of content on gender equality into curricula at all levels of education, both public and private, from early childhood onwards and into education programmes with a

human rights approach. Such programs should be periodically monitored, evaluated and reviewed.

## **TO THE OFFICE OF THE CHIEF-STATE PROSECUTOR**

### ***Concerning prosecutors' handling of cases of gender-based violence and domestic violence***

- Ensure that prosecutors take a more proactive approach in cases of domestic violence and can provide a professional and gender-sensitive response when dealing with cases of domestic violence to avoid stigmatization and secondary victimization of victims during all legal proceedings, including during questioning, evidence collection and other procedures relating to the investigation. This requires a variety of measures, including:
  - targeted training of prosecutors on all forms of domestic violence, including psychological and economic violence, and the means and methods to identify it, prove it and prosecute it; and
  - promoting survivor-centred and gender-sensitive approaches to interviewing victims and collecting testimonies.

### ***Concerning dual arrests in cases of domestic violence***

- Ensure that prosecutors carefully examine criminal reports from the police in cases of dual arrest in domestic violence cases and examine whether there may have been use of self-defence.
- Collect and publish anonymised data on dual arrests and convictions in cases of domestic violence. This data should be disaggregated by gender, ethnicity and the relationship between those arrested, among other relevant characteristics.

### ***Concerning survivor's access to reparations and ending impunity for perpetrators***

- Ensure that Victims Advocacy and Assistance Offices throughout the country are adequately staffed and resourced, and conduct capacity-building training with victim advocates to improve their performance and enable them to meet survivors' needs.

## **TO THE VICTIM ADVOCATES' OFFICE**

### ***Concerning survivor's access to reparations***

- Ensure that the survivors of domestic violence are informed about and receive the necessary assistance to make compensation requests following legal requirements for obtaining compensation in criminal court proceedings.

### ***Concerning intimate partner violence cases where both parties are charged with domestic violence***

- Collect and publish anonymised data on dual arrests and convictions in cases of domestic violence that they process. This data should be disaggregated by gender, ethnicity and the relationship between those arrested, among other relevant characteristics.

## **TO THE KOSOVO JUSTICE ACADEMY**

- Ensure judges and prosecutors receive regular training in international human rights law and standards around issuing effective proportionate and dissuasive sanctions in cases of violence against women and domestic violence, relying on best practices. Training must also include knowledge and understanding about all forms of domestic violence, including psychological and economic violence; the gendered nature of violence against women and domestic violence, harmful gender stereotypes underpinning such violence, and promoting survivor-centred and gender-sensitive approaches to handling such cases, interrogating/interviewing victims and collecting testimonies to prevent secondary victimization and ensure victims' rights, dignity and agency are respected and protected.
- Ensure judges receive regular training about the division of marital property and alimony.
- Ensure that law enforcement officers, prosecutors and judges are trained and equipped to address cases of intimate partner violence and violence against women in the family and are able to identify the use of self-defence in order to minimize dual or wrongful arrest of victims.

### ***Concerning survivor's access to reparations***

- Ensure that victim advocates receive additional training to better inform and assist victims of domestic violence in requesting compensation within criminal proceedings as well as using other available legal avenues to exercise their right to compensation.

## **TO THE JUDICIARY**

### ***Concerning alimony***

- Ensure that courts prioritise issuing decisions on alimony in a timely manner, following good practice in determining the amount based on a realistic assessment to the extent possible of the perpetrator's income, and introduce effective mechanisms for enforcement of such decisions in cases when the perpetrators refuse to pay alimony.

### ***Concerning protection orders***

- Ensure that survivors are properly informed of the wide range of measures available to them through protection orders, including the temporary measures of paying rent and alimony.
- Consider issuing more diverse protection measures to guarantee immediate protection and safety, as well as taking measures to ensure the well-being of survivors of domestic violence.
- Ensure that protection orders are issued in a way that implements the applicable Law on protection from domestic violence stating that the alleged perpetrator must leave the common housing premises and that courts do not order the alleged perpetrator to share the residence with the victim.
- Ensure that protection orders prevent perpetrators remaining in the proximity of the victim.

### ***Concerning survivors' access to justice and ending impunity for perpetrators***

- Ensure that sentences for domestic violence perpetrators are commensurate with the gravity of the offence, proportionate, effective and dissuasive, and do not contribute to perpetuation of a climate of impunity. To this end, the judiciary should implement the Sentencing Guidelines of the Supreme Court and monitor their implementation periodically, in collaboration with survivors' organizations.

### ***Concerning transparency and the right to privacy***

- Ensure that judgments are published within the legal timeframe.
- Review all published court decisions and remove personal information, or other information which identifies the victims, such as the name of the perpetrator, their phone number or other indirectly identifying information to protect the victims' right to privacy.

### ***Concerning intimate partner violence cases where both parties are charged with domestic violence***

- Scrutinize carefully the facts and evidence in intimate partner violence cases and examine indictments even in cases where both parties plead guilty. The judiciary should carefully assess whether violent acts perpetrated in response to violence constitute self-defence, duly taking into account gender-based power dynamics, and their intersection with other inequalities, between intimate partners.
- Collect and publish data on dual arrests and convictions in cases of domestic violence. This data should be disaggregated by gender, ethnicity and the relationship between those arrested, among other relevant characteristics.

## **TO THE PARLIAMENT**

- Amend the new Criminal Code of Procedure so that courts can order the Fund for Compensation of Victims of Crimes to pay compensation to victims of crimes directly, in cases when perpetrators are unable to pay.
- Ensure, in line with recommendations by the UN Special Rapporteur on the right to adequate housing, that legislation on domestic violence recognizes the link with the right to adequate housing and includes legal protections for survivors and their dependents to realize this right, including through the provision of alternative adequate housing for survivors and their dependents.
- Ensure that the new Law for Protection against Domestic Violence includes definitions of all forms of domestic violence, including psychological and economic violence.

- Ensure that the Civil Code includes provisions that regulate the equal division of joint marital property for all pending court cases.

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# FROM PAPER TO PRACTICE

## KOSOVO MUST KEEP ITS COMMITMENTS TO DOMESTIC VIOLENCE SURVIVORS

Survivors of domestic violence in Kosovo, the majority of whom are women and girls, face uncertainty and lack of support when trying to leave abusive situations. The support provided by the state is insufficient to enable them to live independently, forcing many back to abuse, in a vicious circle of violence.

There is a monumental opportunity in Kosovo to change this. The current government has made addressing domestic violence and violence against women a clear national priority and has committed to taking a survivor-centred approach to doing so. In November 2020, the Kosovo assembly amended the country's Constitution to give direct effect to the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention).

Yet, Amnesty International's research found that these efforts have not been sufficient. Despite its strong commitment, the state is failing to fully meet its human rights obligations to take all appropriate measures to address domestic violence and violence against women and girls. These require that Kosovo implement comprehensive prevention policies and ensure survivors receive sufficient and adequate protection and support to leave abusive situations and access justice and reparation in accordance with their needs and priorities.