

OMBUDSPERSON INSTITUTION



BULLETIN

(Recommendations from the 2012 Annual Report)

RECOMMENDATIONS REGARDING THE RIGHT TO LIFE

Kosova Police to display more efficiency in detecting perpetrators that infringe the right to life.

Institute of Forensic Medicine without delays to accomplish actions foreseen by law for finalizing autopsies of murder cases within a reasonable time limit.

Prosecution Office to conduct thorough, efficient, detailed and accurate investigations without delay, within the time frame foreseen by law.

Kosova Judicial Institute to continue with training of judges and prosecutors in criminal field, specifically in the fields that deal with the right to life.

Kosova Judicial Council to hasten appointment of young judges and prosecutors in order to elude lengthy proceedings, due to understaffing.

Ministry of Internal Affairs to apply recommendations issued by the Ombudsperson regarding the use of pyrotechnic devices and substances.

RECOMMENDATIONS REGARDING THE RIGHT OF THE ACCUSED

Other alternative measures to be imposed and not only detention on remand, as a mean of securing the accused person.

Judicial and Prosecutorial Council to exercise broader oversight on judges and prosecutors' work as well as to undertake disciplinary measures against judges and prosecutors in cases of unjustified and unlawful excessive delays in cases of detention.

Kosova Chamber of Advocates also to exercise additional oversight on attorneys and impose measures against those who infringe the Law on Advocates and Advocates' Professional Ethic Code.

RECOMMENDATIONS REGARDING THE FREEDOM OF MOVEMENT

The Government of Kosovo, namely the Ministry of Internal Affairs to undertake all necessary measures in order to resolve, in shortest possible deadline, all requests received for vehicles re-registration and issuance of permanent registration license plates.

The Government of Kosovo to undertake all relevant measures in relation to the vehicle insurance and removal of administrative obstacles for more efficient circulation of goods and services and free movement of people.

The Government of Kosovo, namely the Ministry of Infrastructure, to undertake all necessary measures in order to ensure continuation of unobstructed humanitarian transport.

RECOMMENDATIONS REGARDING THE RIGHT TO MARRIAGE AND FAMILY

Kosovo Judicial Council to continue with appointment of young judges with the aim to increase the efficiency of the courts and evade different delays.

Kosovo Judicial Institute to further continue with training of judges that adjudicate family issues.

Courts to be impartial in taking decisions specifically on the ground of gender discrimination, when determining parental custody for the children.

CSW to accomplish their professional work and to respond on courts' queries regarding case assessments on expert capacity.

RECOMMENDATIONS REGARDING ACCESS TO PUBLIC DOCUMENTS

Government of the Republic of Kosovo, namely the Ministry of Public Administration (MPA) to undertake concrete actions to increase the transparency of administrative bodies which should be open to the public, making public rights, obligations and public institutions' services towards it, ways how they are obtained, and what is needed to solve the problems that they have, in accordance with the law.

Government of the Republic of Kosovo, namely the MPA to take concrete actions to increase the public awareness on the right of access to public documents, as well as to raise the awareness of institutions and public authorities for their obligations that they have for respect of this right.

Government of Republic of Kosovo, precisely the MPA to undertake concrete activities regarding classification of documents and compiling list of documents based on classification within each public institution as a necessity to avoid arbitrariness or denial of access to official documents;

Each public institution in the Republic of Kosovo to appoint persons responsible for receiving of requests for public access to documents in those institutions where this has not been done.

The Parliament and the Government of the Republic of Kosovo, in this case, MPA to take concrete actions to synchronize the LAPD with other laws, especially with the Law on Classification of Information and Security Clearances and the Law on Personal Data Protection, to enable its implementation in practice and avoid problems encountered by public administrative bodies.

Parliament of the Republic of Kosovo to establish an execution mechanism, which would ensure effective implementation of the law of access to public documents. Implementation of Ombudsperson's recommendations for access to public documents from all bodies of public institutions.

RECOMMENDATIONS REGARDING FREEDOM OF GATHERING

Judicial investigation to be conducted as per demeanor of police members who used force against the protesters and passer-by citizens on the 14th of January 2012 protest in Podujevë and at the border crossing point of Dheu i Bardhë.

Individuals from the police force who have used and/or ordered use of force against the protesters on 14 January 2012 to be identified and brought before justice.

All those individuals who used force during the protest against the Kosovo Police to be identified and brought before justice

The role and mission of the Kosovo Police Inspection to be reviewed, the officials of this inspection who have violated the code of ethics and the regulation of activities of the Kosovo Police Inspection on 14 January 2012 to be investigated by an independent institution and to face the legal responsibilities.

Disciplinary and legal measures against the member of the Special Police Unit, who obstructed the work of the Ombudsperson's Institution and threatened the representative of this Institution, should be undertaken.

Organization of special trainings for the Kosovo Police Special Unit regarding the management of situations when dealing with large crowds of people in various public organizations, organized in line with the instructions of the Venice Commission on Protests with special emphasis on the observance of human rights and freedoms.

Ministry of Internal Affairs is required to issue identification number for all members of the police of the Republic of Kosovo regardless of the form, manner and situation of their engagement within the units where they operate.

Kosovo Police, as a constitutional institution for the protection of public order and safety, public health, national security, and human rights and freedoms should by all means require meeting with the organizers of public gatherings regarding their initial planning when this is necessary due to space, time and number of participants unless that is not expressively prohibited by special decision.

RECOMMENDATIONS REGARDING ELECTION AND PARTICIPATION

The Kosovo Judicial Council, namely all competent courts in Kosovo should measure the sanctions fairly and in proportion to the committed criminal act thus prevent potential future violators of election laws.

The Assembly of the Republic of Kosovo should review as soon as possible, notably before next general elections at the local and national levels, all election laws and provide provisions that are clearer and more precise that will enable smoother implementation and interpretation of the election laws.

The Central Elections Commission should resolve as soon as possible all problems pertaining with the updating of voting registers and primarily, removal of deceased persons' names from the lists as well as update the voters' addresses, pooling stations and similar information, and also avoid any problems or errors when delivering the forms to the Counting and Results Centre (CRC).

The Central Elections Commission should undertake all necessary measures to update the CEC webpage with reports and information on the activities of CEC and other institutions responsible for elections, in particular in Serbian and the languages of minority communities.

RECOMMENDATIONS REGARDING THE RIGHT TO PRIVACY

Kosovo Police and the municipal inspection to act decisively according to the law on protection of the right to privacy in all its forms.

The Assembly and the Government of Republic of Kosovo to proceed with endorsement of the Law on interception of communication in Republic of Kosovo, which should be fully in compliance with criteria and norms set by international instrument applicable in Republic of Kosovo.

RECOMMENDATIONS REGARDING PROPERTY RIGHT

The Government of the Republic of Kosovo instituted a functional legal infrastructure for adjustment of property issues; one that is fairly applicable.

The Government of the Republic of Kosovo and the municipalities of Kosovo to enable and ensure enjoyment of property rights completely, without any obstruction or discrimination.

The Municipalities of Kosovo to ensure to their citizens free, safe and unobstructed use of their private properties in compliance with the law.

All municipalities of Kosovo jointly and in coordination with the Kosovo Police, especially in the urban centers of Kosovo to ensure to their citizens free, safe and unobstructed use of the publicly-owned properties for each citizen.

The Municipality of Prishtina to collaborate with the Institution of the Ombudsperson and undertake measures foreseen by law against all citizens who do not cooperate with the Ombudsperson.

The Kosovo Property Agency should fulfill its legal mission by establishing a functional legal structure to provide reasonable compensation to all bearers of the property rights, without discrimination over the entire territory of the Republic of Kosovo, including north of Mitrovica.

RECOMMENDATIONS REGARDING THE RIGHT TO EDUCATION

To ensure comprehensive and equal access for all children in the pre-school education up to 6 years of age.

To complement the school infrastructure and improve maintenance of buildings with special emphasis on hygiene and sanitary conditions.

Since in spite of earlier recommendations by the IO, cases of violence continue to take place in school institutions, the Ombudsman asks from MEST and MEDs to undertake immediate measures to prevent this phenomenon. In this respect, inter-institutional involvement and extension of the MOU between MEST, MIA, MOJ, MLSW and KJC and its punctual implementation to prevent violence in school institutions is a necessity.

The Ombudsman requests from the Government of the Republic of Kosovo, especially MEST to continue further with the implementation of all strategies and memoranda that have been approved to date

RECOMMENDATIONS REGARDING THE RIGHT TO WORK AND EXERCISE OF PROFESSION

The Assembly and the Government of the Republic of Kosovo to play an active role in execution of decisions of the Independent Oversight Board of Kosovo (IOBK), by asking for concrete responsibility from institutions and responsible persons for their failure to observe, in compliance with the law.

The Government should draft bylaws foreseen by the respective laws in this area and to increase the budget for the exact application of the Law on Labor in the public and private sectors.

The Government should ensure that the provisions of the Collective Contract be applied entirely.

To increase the number of inspectors at the Labor Inspection.

RECOMMENDATIONS AFTER INVESTIGATION OF COMPLAINTS AGAINST JUDICIARY

To the Assembly and Government of the Republic of Kosovo to respect the equality of powers as per the Constitution and allocate to the Judiciary the budget requested as per its needs to enable its independent functioning.

To the Assembly of the Republic of Kosovo, Government and the Kosovo Judicial Council to expand the judicial power the entire territory of the country including the north of Mitrovica and the municipalities of Leposaviq, Zubin Potok and Zvečan, as provided for by the Constitution of the Republic of Kosovo.

To the Kosovo Judicial Council and the Ministry of Justice to initiate the drafting of a legal instrument that would constitute an effective tool pursuant to Article 13 of the European Convention on Human Rights that facilitates the prevention or compensation for complaints on running of statute of limitations of cases and excessive delay of court proceedings.

To the Kosovo Judicial Council the court structure reform which according to the Law on Courts No. 03/L-199 began implementation in January 2013 to be functional and not to bring new delays in decision of cases.

To the Kosovo Judicial Council to increase the efficiency for the implementation of the National Strategy on the Reduction of Backlog to reduce the number of unresolved cases.

To the Kosovo Judicial Council to guarantee safety of judges, especially of those at the serious crimes departments, to undertake the necessary legal actions to apply adequate measures of safety inside and outside the court buildings.

RECOMMENDATIONS AFTER INVESTIGATION OF COMPLAINTS AGAINST JUDICIARY

To the Kosovo Judicial Council and the Special Chamber of the Supreme Court of Kosovo to stop refusing practices and request the establishment and strengthening of translation service within the Special Chamber of the Supreme Court of Kosovo so that citizens are not conditioned to address this chamber in English too.

To the Kosovo Judicial Council and the Kosovo Prosecutorial Council: To pronounce measures depriving of freedom - detention, depriving from freedom of the defendant to ensure the presence of the defendant in the criminal procedure only in cases when it is necessary and there are legal reasons and instead use other alternative measures according to Article 173 of the Criminal Procedure Code No. 04/L-123.

To the Office of the Disciplinary Prosecutor :To investigate into all cases of complaints from the citizens concerning the running of statute of limitations and in cases of abuse of duty to propose and undertake legal measures foreseen by law against judges and prosecutors for any eventual established violation.

To the courts to execute final court decisions within the foreseen legal deadline.

To the prosecution offices to inform the injured parties of the possibility to file private charges in all criminal cases when the prosecution offices reject criminal reports and do not file indictments.

To the Kosovo Chamber of Advocates to ensure legal assistance of a better quality in cases of ex officio representation and to regulate clearly and without ambiguities insurance of clients for the advocate in cases of damages caused while conducting the duty of an advocate.

RECOMMENDATIONS REGARDING USE OF LANGUAGE

The Government of Kosovo should ensure at the local and central level the strengthening of capacities of public institutions so that the Law on Use of Languages is applied entirely and qualitatively.

The Government of Kosovo should undertake concrete measures and enable the Office of the Language Commissioner to become operational as soon as possible in the framework of the mandate given to it and to undertake measures to increase the awareness of the function and role of the language Commission.

The Government of Kosovo and the Ministry of Education, Science and Technology should undertake measures to ensure teaching in obligatory classes of any selected official language to encourage closer language relations.

The Government of Kosovo should provide training on regular basis for public officials to ensure learning of both official languages to overcome linguistic barriers.

RECOMMENDATIONS REGARDING CONSTITUTIONAL COURT

That the Government of the Republic of Kosovo and the Privatization Agency of Kosovo implement forthwith Verdict No. KI 08/09 of the Constitutional Court dated 17 December 2010, in favor of former employees of Steel Factory "IMK" Ferizaj.

That the Constitutional Court put in place effective legal and institutional mechanisms that are suitable for the execution and implementation of its decisions in the legal deadline.

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