



**Republika e Kosovës • Republika Kosovo • Republic of Kosovo
Institucioni i Avokatit të Popullit • Institucija Ombudsmana • Ombudsperson Institution**

Prishtinë, 16 December 2015

Isa Musafa – Prime Minister
Government of Republic of Kosovo
Government Building

REKOMANDATION

regarding the Strategy of human rights and freedom protection drafted by Office of Good Governance/ OPM

Constitution of Republic of Kosovo defines fundamental human rights and freedoms as intact, inalienable and indivisible as well as a base of legal order of the Kosovo Republic. Protection, promotion and respect of human rights are state's responsibility and they should abide with international agreements and instruments on human rights.

Article 22 of the Constitution¹ of Republic of Kosovo has included majority of most important international instruments and agreements on human rights and fundamental freedoms, which are also directly applicable in Kosovo.

These international instruments are of particular importance in protection of human rights and fundamental freedoms, because they prevail over national legislation in cases of omissions and shortcomings exposed on them.

Constitutional role of the Ombudsperson is to “*monitor and protect human rights and freedoms of legal and natural persons from unlawful and irregular actions or inactions of the public authorities*”.

¹ “Human rights and fundamental freedoms guaranteed by the following international agreements and instruments are guaranteed by this Constitution, are directly applicable in the Republic of Kosovo and, in the case of conflict, have priority over provisions of laws and other acts of public institutions:

- (1) *Universal Declaration of Human Rights;*
- (2) *European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols;*
- (3) *International Covenant on Civil and Political Rights and its Protocols;*
- (4) *Council of Europe Framework Convention for the Protection of National Minorities;*
- (5) *Convention on the Elimination of All Forms of Racial Discrimination;*
- (6) *Convention on the Elimination of All Forms of Discrimination Against Women;*
- (7) *Convention on the Rights of the Child;*
- (8) *Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment;*

The Constitution of the Republic of Kosovo and the Law on Ombudsperson have defined Ombudsperson's mandate to receive and investigate complaints from any person, within or outside the territory of the Republic of Kosovo, who claims violation of his/her rights and freedoms by public authorities in Kosovo.

Ombudsperson's significant legal responsibilities does not consist only on investigation of alleged violations of human rights, but also provides advice and recommendation to the Government, Parliament and other authorities of the Republic of Kosovo on programs and policies to ensure protection and promotion of human rights and freedom.

Therefore, based on the constitutional powers and legal responsibilities, the Ombudsperson noted that the OGG with the "Annual Work Plan of the Government for 2015" has foreseen issuance of strategies and action plans for current strategies in order to create more effective, consistent and coordinated policies in the field of human rights and freedoms, where OGG is responsible for activities. In this regard, until the end of 2015, drafting of other several strategic documents for the period 2016-2020 is expected, such as:

- *The strategy and Action Plan for Human Rights in the Republic of Kosovo;*
- *Strategic Plan for Children's Rights;*
- *Strategic Plan for protection of children from internet hazards; and*
- *Action Plan for integration of RAE community.*

Currently six (6) strategies are under implementation, three of which end this year:

- *Strategy for integration of RAE community in Republic of Kosovo (2009-2015);*
- *Action plan on implementation of the Strategy on RAE community integration in Republic of Kosovo (2009-2015); and*
- *Action plan on implementation of the Strategy on rights of disabled people (2013-2015).*

While, three other documents are under implementation:

- *National program on provision of deaf sign language services to deaf people in Kosovo (2013-2016);*
- *Governmental Strategy and Action Plan for cooperation with civil society (2013-2017); and*
- *National Strategy on the Rights of Persons with Disabilities in Republic of Kosovo (2013-2023).*

From what has been disclosed above it derives that the Government of the Republic of Kosovo, respectively OGG of the OPM is involved on policies for advancement of human rights and freedoms through drafting strategic documents of certain areas, which should be valued, but the issue of proper strategy coordination should be questioned, given the fact that we have several strategic documents each containing special mechanisms which deal with coordination of implementation of these documents and monitoring of their implementation. Based on the given findings, the Ombudsperson notes that the OGG has drafted some strategic documents on human rights, thus given the fact that human rights are unique and inalienable, we **recommend** existence of the strategy of human rights and freedom at central level which would include all strategies on the field of human rights.

From the meeting held between Deputy Ombudsperson and the OGG Coordinator we've obtained information that appropriate institutional mechanism is at place for each strategic

document which coordinates implementation process, monitors document implementation and reports this. These mechanisms are at political level (Ministerial Committee for RAE community integration; Ministerial Committee for Children's Rights, the National Council for Disabled Persons, Council for civil society cooperation) and at technical level (Technical Working Groups).

Therefore, the Ombudsperson notes that a unique strategic document on human rights will serve the Government of the Republic of Kosovo as guideline to create more efficient, consistent and coordinated polices in the field of human rights and freedoms and that such document would be much more practical and easier to be monitored by local and international organizations on human rights and that implementation process at the same time could be monitored by a single governmental mechanism.

From the current practices, the Ombudsperson also notes that political level mechanisms, appointed by the Government, are responsible bodies on monitoring the progress as well as they attend the difficulties of implementing the strategy and action plan on human rights and report that to the Government of Republic of Kosovo on annual bases on overall strategy implementation of human rights in Kosovo.

From the findings given above, it is also noted that reporting for strategy implementation has been presented to the Government of Republic of Kosovo by mechanisms created by Government itself, thus actually we have the situation where compiling of the strategic documents on human rights and reporting on their implementation rests with the same institution, - the Government. Thus, we also recommend that you, Mr. Prime Minister, within the scope of your reporting to the Assembly, to include also the reporting on Human Rights on annual bases to the Commission on Human Rights, Gender Equality, for Missing Persons and Petition of the Assembly of Republic of Kosovo (and not only when this is requested from this Commission) on implementation of strategy and action plan.

Therefore, the Ombudsperson, based on all information and evidence mentioned above, with intention to increase the performance and the efficiency of public institutions in the field of protection, promotion and improvement of human rights, in accordance with Article 135, paragraph 3 of the Constitution of the Republic of Kosovo "[...] *makes recommendations and proposes actions when violations of human rights and freedoms by the public administration and other state authorities is observed*" as well as Article 18 paragraph 3 of Law no. 05 / L-019 for the Ombudsperson, according to which " *The Ombudsperson can advise and recommend to the institutions of the Republic of Kosovo for their programs and policies to ensure the protection and advancement of human rights and freedoms in the Republic of Kosovo*", with the hope to jointly assist advancement of human rights and freedoms, finds it reasonable provision of the following

Recommendations:

- ***The Government of Republic of Kosovo, to possibly draft a single strategic document in the field of human rights and freedoms, where all specific strategies on human rights will be included.***

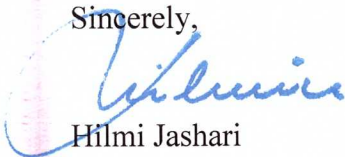
- *With the Commission on Human Rights, Gender Equality, Commission on Missing Persons and Petition of the Assembly of Republic of Kosovo and OGG to discuss findings on implementation of human rights strategies.*

Pursuant to Article 28 of the Law on Ombudsperson, No. 05/L-019 and Article 132, paragraph 3 of the Constitution of Republic of Kosovo, we would like to be informed on actions that will be undertaken as a response on the preceding Recommendations.

At the same time we would like to express our willingness in provision of additional explanations, in case you qualify it as necessary.

Through expressing our gratitude for the cooperation, You are kindly asked to provide your response regarding this issue within the legal time frame of thirty (30) days.

Sincerely,



Hilmi Jashari
Ombudsperson