



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

ANNUAL REPORT

2020

No. 20

Prishtina, 2021

Table of contents

Foreword by the Ombudsperson	7
I. Ombudsperson Institution.....	10
Mandate of the Ombudsperson Institution	10
Promotion of Human Rights	13
Access to the Ombudsperson Institution.....	20
II. Human Rights situation in the Republic of Kosovo.....	24
Legislative power	24
Judicial system	26
Legal protection of human rights during the COVID-19 pandemics.....	26
Disciplinary liability of judges and prosecutors.....	29
Executive power	30
Sustainable Development Goals.....	37
Responsibility regarding the living environment	39
The right of access to public documents	49
III. Rights of the child.....	54
Children's rights during the COVID-19 pandemic.....	55
Children with disabilities	56
Social and health protection of children.....	58
Juvenile justice	60
Positive state obligations regarding the right to life.....	61
Prevention of child marriage	62
The right to legal identity	63
Danger from stray dogs.....	64
IV. Equality before the law	68
The Ombudsperson Institution as a mechanism for protection from discrimination.....	68
Discrimination at work.....	69

Protecting workers' rights during the global COVID-19 pandemic.....	70
The position of pensioners at the time of the pandemic.....	73
Persons with disabilities.....	74
Gender equality.....	77
LGBTI community rights.....	78
Domestic violence.....	80
Social and Health Protection.....	81
Social housing.....	82
Activities of the Department for Protection against Discrimination.....	84
The rights of communities.....	86
Return and security.....	88
Property rights.....	90
Education.....	91
Use of language.....	94
Integration of Roma, Ashkali and Egyptian communities and problems with unemployment.....	96
V. National Preventive Mechanisms against Torture.....	100
Visits conducted.....	101
Kosovo Police.....	103
Correctional and detention centres.....	106
Asylum Centre.....	116
Detention centre for foreigners.....	117
Mental health Institutions.....	117
Kosovo Forensic Psychiatry Institute.....	118
Emergency and Intensive Psychiatric Care Ward.....	120
Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime.....	123
Community Integration Homes.....	124

Special Institute in Shtime.....	124
Community-based Homes.....	125
Home for Children with Disabilities - Shtime	126
Home for the Elderly without Family Care in Prishtina (HEFC)	126
VI. International Cooperation	132
Cooperation with counterparts and other international organizations	135
Reporting to various international mechanisms	140
VIII. Financing.....	148
Budget of the Ombudsperson Institution	148
Funding from the Budget of the Republic of Kosovo.....	148
Final budget and the realization of expenditures for 2020.....	149
IX. Statistics.....	154
Statistics summary of complaints and cases	154
Graphic presentation of statistics 1 January 2020 - 31 December 2020	163
Statistics on indicator 7 of the Sectoral Reform Contract for Public Administration Reform	168

Foreword by the Ombudsperson

Republic of Kosovo is built on the principles of freedom, peace, democracy, equality, non-discrimination, respect for human rights and freedoms and the rule of law.

For more than two decades, the Ombudsperson has stood strongly on his constitutional role in fulfilling the mandate entrusted to him with regard to protection, supervision and promotion of human rights as well as strengthening of principles on which the democracy of our country is built. In this respect is also fulfillment of the constitutional liability of submitting an Annual Report to the Assembly of the Republic of Kosovo.

This year, reporting is being done in a situation of crisis due to the Covid-19 Pandemic.

Measures of restriction undertaken to prevent the threat to public health have placed in the core of attention the importance that respect for human rights has even in times of crisis.

Report reflects situation on human rights in the Republic of Kosovo as well as it reveals Ombudsperson's work in overseeing, protection and promotion of human rights and fundamental freedoms.

The Report aims to draw attention of the institutions so that the respect for human rights is not left on the mercy of free political actions, but through executive and legal instruments to ensure their respect and enforcement. Particular attention is given on strengthening of mechanisms which guarantee system's independence from the impact of changes in governance and political processes.

I am convinced that Ombudsperson's findings and recommendations addressed as well as presented in this Report, will gain authorities' merited attention, so that this document serves as a guide for the orientation of policies for state functioning, pursuant to the principle of respect for human rights, equality, the rule of law, transparency, accountability, as values of democracy.

I assure that the Ombudsperson will continue to fulfill his constitutional responsibility as a guardian of Kosovo Republic citizens' rights by paying special attention to vulnerable groups - women, the elderly people, those with disabilities, children, minority communities, the LGBTI community and citizens living in poverty.

Naim Qelaj

Ombudsperson

I. Ombudsperson Institution

I. Ombudsperson Institution

According to the Constitution of the Republic of Kosovo the Ombudsperson Institution of Kosovo (OIK) is defined as a constitutional category, specifically as an independent constitutional institution.¹ The Ombudsperson monitors and protects the rights and freedoms of individuals from unlawful or improper acts or failures to act of public authorities.² The function of the Ombudsperson is exercised pursuant to Law no. 05/L-019 on Ombudsperson which aims to establish legal mechanism for protection, supervision and promotion of fundamental rights and freedoms of natural and legal persons from illegal actions or failures to act and improper actions of public authorities, institutions and persons or other bodies and organizations exercising public authorizations in the Republic of Kosovo (hereinafter: public authorities), and the establishment of the National Preventive Mechanism against torture and other cruel, inhuman and degrading treatments and punishments.³

Additionally, the Ombudsperson represents an equality mechanism for promoting, monitoring and supporting equal treatment without discrimination on grounds recognized by the Law on Gender Equality and the Law on Protection from Discrimination.⁴

According to the Law no. 05/L-019 on Ombudsperson, the OIK is composed of: Ombudsperson, five (5) Deputy Ombudspersons and the staff of the OIK.⁵

Mandate of the Ombudsperson Institution

The mandate of the Ombudsperson Institution is defined by the Constitution of the Republic of Kosovo and the Law on Ombudsperson, according to which the Ombudsperson receives and investigates complaints from any person, inside or outside the territory of the Republic of Kosovo, who claims that his or her rights and freedoms have been violated by public authorities in Kosovo.

Ombudsperson Institution is independent in the exercise of its duties and does not accept instructions or intrusions from public authorities, which are obliged to respond to the requests of the Ombudsperson Institution and submit all requested documentation and information in conformity with the law.

Within its activity, the Ombudsperson Institution is an independent institution that is governed by the principles of impartiality, independence, pre-eminence of human rights, confidentiality and professionalism⁶ and enjoys organizational, administrative and financial independence in

¹Constitution of the Republic of Kosovo, Chapter XII, Articles 132-135.

²Ibid., Article 132.

³Law no. 05/L-019 on Ombudsperson, Article 1, paragraph 1.

⁴Ibid., Article 1, paragraph 2.

⁵Ibid., Article 5.

⁶Ibid., Article 3, paragraph 1.

the implementation of tasks set forth by the Constitution of the Republic of Kosovo and the Law.⁷

In the framework of its powers, the Ombudsperson conducts investigations on complaints received from any natural or legal person related to assertions for violation of human rights envisaged by the Constitution, Laws and other acts, as well as international instruments of Human rights, particularly the European Convention on Human Rights (ECHR).⁸

The Ombudsperson may conduct investigations on his own initiative (*ex officio*) if testimonies, facts, findings or knowledge gained from public information or other sources provide an indication of the violation of human rights. Likewise, the Ombudsperson uses mediation and reconciliation, and can also provide good services to citizens of the Republic of Kosovo located abroad.

If during the investigation conducted the Ombudsperson observes the presence of criminal offence, he/she shall notify the competent body on initiation of investigation. Similarly, The Ombudsperson may appear in the capacity of the Court's friend (*amicus curiae*) in judicial proceedings dealing with human rights, equality and protection from discrimination. The Ombudsperson does not intervene on cases and other legal procedures that are taking place before the courts, except in cases of delays of procedures. However, the Ombudsperson may provide general recommendations on the functioning of the judicial system. Similarly, the Ombudsperson may initiate matters to the Constitutional Court of Kosovo in accordance with the Constitution and the Law on Constitutional Court.⁹

The National Preventive Mechanism against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (NPMT) functions within OIK.¹⁰

The Ombudsperson, in the framework of responsibilities as NPMT, is obliged to visit regularly and without notice all places where persons deprived of liberty are held (including police custody, detention on remand, stay at medical institutions, customs detention, immigration detention, and any other place when it is suspected that there may be violations of human rights and freedoms). The Ombudsperson cooperates with international and domestic mechanisms in the field of the prevention of torture and other forms of cruel, inhuman, or degrading treatment or punishment. In addition, the Ombudsperson may issue suggestions and recommendations to persons and responsible institutions where persons deprived of liberty are held, of whatever kind and in whatever premises and circumstances in which they are being held, with the aim of improving their treatment and conditions.

⁷Ibid., Article 3, paragraph 3

⁸Ibid., Article 16.

⁹Constitution of the Republic of Kosovo, Article 113, paragraph 2, Article 135, paragraph 4, Law no. 05/L019 on Ombudsperson, Article 16, paragraph 10. Law no. 03/L-121 on the Constitutional Court of the Republic of Kosovo, Article 29.

¹⁰Law no. 05/L-019 on Ombudsperson, Article 17.

The Ombudsperson performs other work defined by the Law on protection from discrimination, Law on Gender Equality, and other legislation in force; collects statistical data regarding the issues of discrimination and equality presented to the Ombudsperson, and publishes them; publishes reports and makes recommendations on policies and practices on combating discrimination and promoting equality; cooperates with social partners and non-governmental organizations dealing with issues of equality and non-discrimination, as well as similar international bodies like the Ombudsperson.¹¹

The Ombudsperson also has further legal responsibilities: not only to investigate alleged violations of human rights and acts of discrimination, but to show commitment to eliminate them; to draft and adopt specific procedures for receiving and handling complaints from children, and the creation of a specialized team for children's rights and a permanent program for children to become aware of their rights and the role of OIK in their protection; to inform about human rights and to make recommendations to the Government, the Assembly and other competent institutions of the Republic of Kosovo on matters relating to promotion and protection of human rights and freedoms, equality and non-discrimination; to publish notifications, opinions, recommendations, proposals and his/her own reports; to recommend promulgation of new Laws in the Assembly, amendment and supplementation of the Laws and promulgation or amendment and supplementation of administrative and sub-legal acts by the institutions of the Republic of Kosovo; to prepare annual, periodical and other reports on the situation of human rights and freedoms; to recommend to the harmonization of legislation with international standards for human rights and freedoms, equality and discrimination and conduct research on the issue of human rights and fundamental freedoms, equality and discrimination; to cooperate, in accordance with the Constitution and legislation in force, with all local and international institutions dealing with protection of human rights and freedoms; keep-safe the confidentiality of all information and data they receive, paying special attention to safety of complainants, damaged parties and witnesses, in accordance with the Law on personal data protection.

Citizens can file complaints against public administration, according to a simple and free of charge procedure. Complaints addressed to the OIK can refer to actions, inactions or decisions of public administration that applicants may consider unfair or unfavourable. When reviewing such complaints, actions of the OIK's lawyers involve offering legal advice, accompanied by requests for data from the public administration, the courts and other important institutions concerning the complaints filed, as well as by supervision of certain administrative and judicial proceedings.

In cases that require immediate action, the Ombudsperson submits requests for interim measures. If Ombudsperson considers that immediate measures must be taken by public authorities, he/she may legally request that the competent administrative body undertake or

¹¹Ibid., Article 16, paragraph 13 to 16.

suspend a particular action, as an interim measure to prevent irreparable damage to complainants or to their property.

If the requests for intervention and efforts to mediate are not successful, the Ombudsperson may issue a report, ensuring public analysis and exposure for violations of human rights or of applicable laws, along with recommendations for the public institution, to avoid violations. The report is addressed to the authority that has committed the violation, while the copy of the report is delivered to the Assembly of the Republic of Kosovo and to other relevant organisations. Meanwhile the Ombudsperson presents the Annual Report for the previous year to the Assembly of the Republic of Kosovo until 31 of March of the following year, which is reviewed in the plenary session by the Assembly during the spring session.¹²

The Ombudsperson's powers to review issues related to protection from discrimination in general, and gender discrimination in particular were provided by two other basic laws on human rights (Law on Protection from Discrimination and Law on Gender Equality).

According to the Law on Gender Equality, the Ombudsperson is a gender equality institution that handles cases related to gender discrimination, in accordance with procedures established by the Law on Ombudsperson.¹³

On the other hand, according to the Law on Protection from Discrimination, the Ombudsperson is a state institution for promotion and protection of human rights and handles cases related to discrimination under the relevant Law on Ombudsperson.¹⁴

The Office for Good Governance (OGG) within the Office of the Prime Minister (OPM), is responsible for monitoring the implementation of the Ombudsperson's recommendations, dealing with the implementation of the Law on Protection from Discrimination.¹⁵

Promotion of Human Rights

Even during 2020, the Ombudsperson Institution remains committed to the fulfilment of constitutional and legal mandate for promoting and protecting human rights and fundamental freedoms.

Given that the situation of the COVID-19 pandemic this year has posed a challenge for the OIK in terms of carrying out promotional activities, the Ombudsperson, through the existing capacities with maximum effort, adapted the organization of activities to measures against the pandemic.

In the first two months of 2020, the planned promotional activities were carried out in the field, while from March of this year many of the planned activities were converted into virtual

¹²Ibid., Article 29.

¹³Law no. 05/L-020 on Gender Equality, Article 13.

¹⁴Law no. 05/L-021 on protection from discrimination, Article 9.

¹⁵Ibid, Article 10, paragraph 1, subparagraph 1.2.

activities and carried out through various platforms. The transmission of messages and attitudes of the OIK was also increased, through direct participation in the media and through video spots.

The Ombudsperson, through various forms of communication, highlighted the importance of respecting the human rights even during the pandemic period. Special emphasis was given to informing the public that human rights are restricted only by law and that the pandemic poses a threat to public health, and as such may justify restrictions on certain rights, such as: freedom of movement, gathering etc. On the other hand, public authorities were called upon to adhere to the principle of proportionality in imposing restrictive measures in relation to human rights. The views of the Ombudsperson were also introduced through published statements.

In January 2020, the OIK, together with the United Nations Development Program (UNDP), held three informational sessions before judges, prosecutors and human rights officials at the central and local levels on the use of the Platform for Human Rights and the Sustainable Development Goals. The platform was published by the OIK on 10 December 2019, in cooperation with UNDP and with the financial support of the Norwegian Ministry of Foreign Affairs. The same provides two guidelines that will serve to provide easier and more practical access to domestic and international jurisdiction through structured links between legal and judicial instruments (case law of the European Court of Human Rights), which apply directly to the legal system of the Republic of Kosovo, as well as to demonstrate the links between the Sustainable Development Goals and fundamental human rights and freedoms. During the informational sessions for the Platform, 17 Sustainable Development Goals were presented, including the role and responsibility of states for their implementation.

Similarly, in January, the Ombudsperson in cooperation with the UNDP presented a guide to judges, prosecutors, professional associates and legal officers regarding the possibilities and search options in the collection of decisions of the European Court of Human Rights - HUDOC. The guide provides clarifications on the contents of the database and the process of searching European Court of Human Rights (ECtHR) decisions, as well as, provides concrete explanations for filtering information by country, language, Articles of the Convention and others options. The HUDOC (Human Rights Documentation) database contains judgments, decisions, legal summaries and press releases related to cases decided by the ECtHR. The Ombudsperson and UNDP through this material aim to further advance the implementation of the European Convention on Human Rights in the justice sector in Kosovo. This guide, developed with the professional and financial support of UNDP and the Norwegian Embassy in Kosovo, will assist in particular legal officers and professional associates in courts and prosecutors in interpreting laws and sub-legal acts in the spirit of Article 53 of the Constitution of the Republic of Kosovo.

On 4 April 2020, the Ombudsperson, through a press release, reacted to the publication of some news from the portals, which published lists with tables containing names and surnames

and other personal data of persons who were ordered to isolated in quarantine, due to coronavirus. The Ombudsperson has called on the electronic media to remove the news in question, so that it is not republished by other portals. The Ombudsperson also asked the media and journalists to do more to protect the personal data of persons in self-isolation, quarantine, diagnosed with COVID-19, and hospitalized, in addition to information provided with the consent of the person in question.

On 30 April 2020, the Ombudsperson published a statement regarding domestic violence during the COVID-19 pandemic. The Ombudsperson drew attention to the state's obligation to international human rights standards to exercise due diligence in preventing, investigating, punishing and providing compensation for acts of violence, in accordance with their obligations under the European Convention on Human Rights and Freedoms.

On 3 May 2020, on the occasion of the World Press Freedom Day, the Ombudsperson published a press release, through which he considered with concern the growing cases during 2020 of threats, physical attacks, breaches of security and obstruction of free exercise of the profession. Despite the cases when the police and the prosecution have done their job in identifying the perpetrators of acts against journalists and have proceeded to the bodies of the justice system, the Ombudsperson draws attention to the impunity of cases when journalists are attacked, threatened or prevented from performing their work, thus creating an insecure environment for the work of the media and indirectly paves the way for the self-censorship of journalists and the media. In this spirit, the Ombudsperson calls for a free flow of opinion, speech and information and for reflection towards the opinions expressed differently, considering them an essential value of democracy, a system which Kosovo has embraced as a state.

On 17 May 2020, on the occasion of the International Day Against Homophobia, Transphobia and Biphobia, the Ombudsperson issued a statement calling attention to guaranteeing the rights of persons of the LGBTI communities, who continue to be among the most vulnerable groups in our society. Through this statement, the Ombudsperson reminds that constitutional guarantees for human rights are fundamental values of a democratic society, which serve the protection of human dignity, freedom and equality, and that these values are the basic foundation for the functioning of the state.

On 5 June 2020, the Ombudsperson, on the occasion of marking the World Environment Day, published a press release, through which he drew the attention of all the country's institutions to the need for deeper commitment to take concrete and necessary measures for the protection and preservation from environmental degradation in the country, in order to respect the right of citizens to a safe and healthy environment. Emphasizing that the right to a safe and healthy environment is guaranteed by the country's Constitution and as such is listed among the values on which the constitutional order is based, the Ombudsperson invited the country's institutions, especially the Assembly of the Republic of Kosovo, to exercise effective control

over the implementation by the government of environmental standards and legislation. The appeal was also addressed to the judiciary bodies, in order to provide citizens with effective judicial protection regarding the addressing of cases initiated in court for violation of environmental rights.

On 8 June 2020, the Ombudsperson met with the Director of the National Institute of Public Health of Kosovo (NIPHK), from whom he was informed about the latest situation caused by the pandemic and the large number of citizens infected with the COVID-19 virus. Following this meeting, the Ombudsperson appealed to the citizens of the country to comply with the measures against the pandemic, requesting strict compliance with the measures recommended by the government and the NIPHK.

On 26 June 2020, on the occasion of marking the International Day in Support of Victims of Torture, the Ombudsperson, through a press release, drew the attention of the institutions responsible for the implementation of Article 27 of the Constitution of the Republic of Kosovo, which states: *“No one shall be subject to torture, cruel, inhuman or degrading treatment or punishment.”* The Ombudsperson, as a National Mechanism for the Prevention of Torture, recalled the Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic, published by the Council of Europe’s Committee for the Prevention of Torture (CPT), on 20 March 2020.¹⁶

On 12 October 2020, as part of the celebration of Pride Week in Kosovo, the Ombudsperson, through a press release, drew attention to the guarantee of fundamental human rights for members of the LGBTI community, who are still one of the most vulnerable in our society. Strongly committed to the idea that human beings are born free and equal in terms of dignity and rights, the Ombudsperson reminded that all citizens of this country are equal and that the state has a duty to protect rights guaranteed by the Constitution of the Republic of Kosovo and the Law on Protection from Discrimination.

On 25 November 2020, the Ombudsperson, on the occasion of marking the International Day for the Elimination of Violence against Women, and in order to raise public awareness, reminded state institutions of their obligations to provide victims of violence with adequate and immediate protection from the risk of violence. On this occasion, the Ombudsperson considers the inclusion of the Istanbul Convention (Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence) in the Constitution of the Republic of Kosovo as a positive step. The Convention describes violence against women as a "violation of human rights" and as a "form of discrimination". The Ombudsperson also called on all citizens to report domestic violence to the authorities, in order to enable institutions to act even during the pandemic, according to the existing legal basis.

¹⁶<https://rm.coe.int/16809d569f>

On the occasion of the campaign “16 Days of Activism”, the OIK has been part of many activities organized by local and international institutions and civil society.

On 10 December 2020, on the occasion of marking the International Human Rights Day, the Ombudsperson organised the virtual conference of regional character, with the topic: “*Human rights in the period of pandemic and the role of national human rights institutions*”. The purpose of the conference was to discuss the human rights situation during the period of COVID-19 pandemic, as well as the role of national human rights institutions. This was also an opportunity for participants to share experiences and challenges in terms of respect for human rights and fundamental freedoms. The conference was attended by the highest authorities of the country, Ombudspersons from the region, representatives of civil society and international organizations.

On 10 December 2020, in the online award ceremony, organized by the Office of the Language Commissioner (OLC) in cooperation with the Organization for Security and Co-operation in Europe, Mission in Kosovo (OSCE), the evaluation committee awarded the Ombudsperson Institution with the award “The Best Practice in implementing the Law on the Use of Languages”.

During the reporting year, a special place was occupied by the promotion of human rights through the media. Topics presented were: human rights and the role of the OIK, privacy during the pandemic, freedom of movement, non-discriminatory treatment, domestic violence during the pandemic, health and social protection, the rights of persons with disabilities etc. The publication on TV of human rights videos also played an important role in the promotion of human rights.

Cooperation with local institutions, international organizations in Kosovo, non-governmental organizations and promotion of human rights

During the reporting year, the Ombudsperson and his associates organized and participated in roundtables, conferences, workshops, trainings, public debates, consultative and thematic meetings and cultural activities. The OIK has also supported activities and campaigns organized by international organizations and non-governmental organizations. Many of the above events are organised virtually.

The cooperation and support of the OIK by various international organizations has continued, such as: European Union, Council of Europe, Organization for Security and Co-operation in Europe (OSCE), UNICEF, Representative of the Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations agencies, etc.

In January this year, the OIK and the Kosovo Agency of Statistics (KAS) signed a Memorandum of Understanding for the establishment of institutional cooperation in the field of statistics and indicators for assessing progress in human rights and implementation of 2030 Agenda for Sustainable Development. The Memorandum of Understanding between the OIK

and KAS aims at collecting statistical data and disaggregating them as a way to address the challenges faced by target and marginalized groups. Indicators are an essential tool for assessing progress in human rights and the implementation of the 2030 Agenda for Sustainable Development.

On 23 October 2020, the Ombudsperson received in an introductory meeting the representatives of the United Nations agencies in Kosovo, otherwise known as the United Nations Team of Kosovo (UNKT). In this meeting the parties agreed to increase cooperation in order to advance human rights in Kosovo.

On 26 November 2020, the Ombudsperson hosted in a meeting the head of the UN Women office in Kosovo and her associates, which was held in the framework of the campaign "16 Days of Activism", a campaign which aimed to raise awareness of protection from domestic violence and the elimination of all forms of violence against women. During this meeting, special emphasis was placed on the importance of supporting victims of gender-based violence and ensuring respect for the rights of victims of domestic violence. Cooperation between the Ombudsperson and the UN Women office in Kosovo will be inevitable for achieving progress in preventing violence against women and improving respect for women's rights in the country.

The EU-funded project "*EU Support to the Ombudsperson Institution in Kosovo*", supported by the Instrument for Pre-Accession Assistance (IPA II) for Kosovo continued. The main goal of the project is to strengthen the capacity of the OIK in the effective protection and promotion of fundamental human rights and freedoms in Kosovo and to raise awareness of citizens, public authorities and civil society about the role of the OIK in promotion and protection of fundamental human rights and freedoms.

The support of the OIK by the OSCE has continued, within the project for strengthening the capacities of the OIK. This project has supported the OIK with three promotional videos against hate speech, hate crimes and for raising public awareness against discrimination. The purpose of the videos is to raise general awareness about the grounds of discrimination, hate crimes, hate speech, as well as to encourage victims to report cases of discrimination and hate crime to the competent institutions. During December 2020, video spots were broadcast on several television channels as well as social networks.

Similarly, in the framework of the campaign "16 Days of Activism", the OSCE in cooperation with the OIK have published awareness videos against sexual harassment in the workplace and raising public awareness on the basics of protection against discrimination and non-equal treatment.

The OIK is also one of the beneficiaries of the Human Capacity Development (HCDF) project for the Stabilization and Association Agreement (SAA), which is supported by the Governments of Luxembourg and Norway.

The OIK is one of the beneficiaries of the Council of Europe project, which aims to strengthen Kosovo's institutions in the fight against torture, inhuman or degrading treatment. This project aims to support the National Preventive Mechanism against Torture (NPMT), within the OIK, in improving the capacity and skills of NPMT staff in monitoring detention institutions and increasing their reporting, communication and media skills, increasing cooperation and awareness among relevant stakeholders, ensuring that the rights of persons deprived of their liberty are respected.

Likewise, with the support of the Council of Europe, the OIK is one of the beneficiaries of the project "Promotion of diversity and equality in the Western Balkans".

In order to combat discrimination and stigmatization of people who have been or are infected with COVID-19 and to promote the role of the OIK in combating discrimination, the Ombudsperson through the video spot became part of the campaign "#loveandcare".

Promotion of children's rights

On 24 February 2020, the Ombudsperson and his representatives hosted 30 children from the elementary school "Pavarësia" in Prishtina. In this meeting, the children were given the opportunity to express their thoughts, attitudes or concerns about the various problems they face.

On 25 February 2020, the OIK conducted an outreach campaign: "*Meet the Ombudsperson's Institution*", for students and teachers of primary and lower secondary schools in the villages of Vranidoll, Tenezhdoll and Sharban.

During May, the OIK together with the Coalition of NGOs for Child Protection (KOMF), the Association of Kosovo Municipalities and the Association of Centres for Social Work, published the Joint Position for the Specific Grant for Social and Family Services. This position contains the proposal and justification for the creation and inclusion of the Specific Grant for Social and Family Services, within the new Law on Local Government Finance.

On 22 May 2020, as a result of the situation with COVID-19, the Ombudsperson in cooperation with UNICEF and KOMF issued a joint statement to the relevant responsible institutions: "*Let's give Juveniles a Chance*", with a call that as soon as possible, where the legal conditions are met, decisions be taken, for replacement or review of institutional educational measures, replacement of detention, early release, parole or even pardon of sentences.

On 25 May 2020, the OIK joined the *#visa4children campaign and the call for the inclusion of children with disabilities* organised by UNICEF Kosovo Programme in Kosovo and HANDIKOS.

On 1 June 2020, on International Children's Day, the Ombudsperson issued a statement drawing the attention of all stakeholders and institutions responsible for the implementation

of the Law on Child Protection and called for maximum commitment to protect and guarantee the best interest for children in the Republic of Kosovo.

On 9 August 2020, the OIK, KOMF, the Association of Kosovo Municipalities and the Association of Centres for Social Work published the Joint Position with the proposal for drafting the new Draft Law on Social and Family Services.

On 20 November 2020, on International Children's Day, the Ombudsperson called on the institutions to take care of respect for the rights and welfare of children. In particular, it asked the institutions, when approving support packages, to include specific measures to support children in street situations, children with disabilities and children in difficult economic situation, with a request that these measures be accompanied by sustainable funding in order to respond to the health, social and economic crisis caused by COVID-19.

Access to the Ombudsperson Institution

The OIK receives every working day (Monday to Friday) from 8:00 to 16:00, at its offices citizens who claim that their rights have been violated. They are received by OIK legal advisors who handle the cases with care, confidentiality and professionalism. The OIK's services are free of charge and are provided by professional staff.

In order to facilitate the access of Kosovo citizens to the OIK, in addition to the Central Office in Prishtina, the OIK has regional offices in Gjilan, Ferizaj, Prizren, Gjakova, Peja, Mitrovica South, Mitrovica North and Gracanica.

In addition to physical access to the OIK's offices, there are other forms of access such as: via mail, phone, social network Facebook and e-mail, which are being used increasingly often and actually are used by citizens in filing complaints. In the OIK's Main Office in Prishtina, there is a telephone line, free of charge, for urgent matters, but also for other ordinary cases.

OIK officials make regular visits to all prisons, police custody and detention centres. In order to enable direct communication with the prisoners, detainees and those under custody, in cooperation with the authorities of the Kosovo Correctional Service (KCS) and prisons responsible authorities in Kosovo, in 2004 the OIK placed mailboxes at visible spots in all prisons and detention centres in the Republic of Kosovo, which are only opened by OIK representatives. This practice has helped many inmates or detainees to establish first contact with the Ombudsperson. Such boxes are also placed in Mental Health Centres and institutions, thus facilitating complainants' access to the OIK.

Following the rapid spread and consequences of the COVID-19 virus, the World Health Organization declared a state of global pandemic.¹⁷ In order to protect the public health of the citizens of the Republic of Kosovo, NIPHK recommended to the Government of the Republic

¹⁷ <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-COVID-19,11-march-2020>

of Kosovo to take measures in accordance with the situation. Pursuant to the recommendations of the NIPHK, the Government of the Republic of Kosovo with a decision had declared a “*public health emergency*” and issued decisions to take measures to prevent and contain the spread of the COVID-19 pandemic, which among other things had limited the movement of citizens during the pandemic. In line with the recommendations of the NIPHK and government decisions, the Ombudsperson also took action to reduce staff by operating only with essential staff and remote work, as well as the suspension of direct contact with complainants. Citizens have been notified in a timely manner about the possibility of filing complaints by e-mail and by telephone.

II. Human rights situation in the Republic of Kosovo

II. Human Rights situation in the Republic of Kosovo

Legislative power

The 2020¹⁸Legislative Program of the Government of the Republic of Kosovo has foreseen to review and adopt 135 draft laws, (97 new laws and 38 draft laws to amending and supplementing the existing laws), but has not managed to fully implement the program. This program plans to amend and supplement 38 draft laws, or 39.2% of the entire Legislative Program. In contrast to recent years (year 2018 - 31%, year 2019 - 26%), in 2020 there is an increase in the percentage of draft laws amending and supplementing existing laws, which in practice represents a regression in the stability of laws, as there is a greater number of initiatives on amending and supplementing existing laws.

The Ombudsperson has noticed that the Assembly of the Republic of Kosovo in its activity during reviewing and adopting laws in 2020 has adopted 17 laws. Regarding this issue, the Ombudsperson considers that the small number of laws adopted by the Assembly is a result of the improper functioning of the Assembly and the government, due to political circumstances and those caused by the COVID-19 pandemic.

One of the most special events that occurred in the legislative process during the reporting year is the adoption of Law no. 07/L-006 on Prevention and Combating the COVID-19 Pandemics in the Territory of the Republic of Kosovo. This law was approved by the Assembly of the Republic of Kosovo on August 14, 2020. The law aims to create a legal basis for state institutions of the Republic of Kosovo for preventing and combating the COVID-19 pandemic and was issued as a result of the assessments of the Constitutional Court in deciding on the request filed by the president against the government's decision on restrictive measures, respectively to the restriction of freedom of movement and freedom of assembly.

In order to protect the rights of children, on 12 August 2020, the Ombudsperson published a Report with recommendations regarding the prevention of child marriage and recommended to the Assembly of the Republic of Kosovo to amend and supplement Article 16, paragraphs 2 and 3, of Law no. 2004/32 on Family in Kosovo, respectively removal of paragraphs 2 and 3 of Article 16. However, the Assembly of the Republic of Kosovo has not taken any action in order to implement the recommendation in question.

On December 4, 2020, the Assembly of the Republic of Kosovo, adopted the Law no. 07/L-016 on Economic Recovery - COVID – 19. This law aims to amend and supplement certain laws, in order to enable economic recovery in the Republic of Kosovo after the negative effects caused by the COVID-19 pandemic.

¹⁸The Legislative Program for 2020 was approved at the 5th meeting of the Government of the Republic of Kosovo, with Decision no. 1/05, dated 15.6.2020, amended and supplemented by Decision no. 1/20, dated 5.8.2020, with Decision no. 9/24 and no. 10/24, dated 14.8.2020, with Decision 3/28, dated 28.8.2020, with Decision 5/29 and no. 12/29 dated 9.9.2020, and with Decision 4/24, dated 7.10.2020.

The Ombudsperson, in the Annual Report 2018¹⁹ and Annual Report 2019²⁰, has assessed that the Assembly of the Republic of Kosovo should take measures towards the professional development of the support staff of the committees, in order to train them to interpret laws. Such an assessment was based on the fact that the Assembly of the Republic of Kosovo does not interpret the laws and was causing ambiguity and misunderstanding of the spirit of the laws. The ombudsperson continues to reiterate his position on this issue, in order for the Assembly to ensure the professional development of its staff with the purpose to train them in terms of interpreting the laws.

The Ombudsperson, in the Annual Report 2019, had noted that the laws published in the Official Gazette do not have notifications that provisions of a certain law have been repealed by the Constitutional Court. A concrete example is the assessment of the compliance of Article 14, paragraph 1, subparagraph 1.7 of the Law No. 03/L-179 on the Red Cross of the Republic of Kosovo with the Constitution. In this case, the Constitutional Court with Judgment KO 157/18 rendered on 28 March 2018 considered that paragraph 1.7 of Article 14 of the Law No. 03/L-179 on the Red Cross of the Republic of Kosovo is not in accordance with the Constitution and thus the same was repealed. However, such notification cannot be found in the Official Gazette when it is stated that the Law on the Red Cross, respectively in Article 14, paragraph 1.7 is in force regardless of the fact that this provision has been repealed by the Constitutional Court. The same situation is present in the case of the Law No. 06/L-048 on Independent Oversight Board for Civil Service of Kosovo, the provisions of which have been repealed by the Constitutional Court with Judgment KO 171/18 dated 20 May 2019. The said provisions are Article 4, paragraph 1, in conjunction with Article 3 paragraph 1.1, Article 6, paragraph 1.3 and Article 19 sub-paragraphs 5, 6, 7 and 8, for which the Constitutional Court has ruled that they are not in compliance with the Constitution, although they still appear in the Official Gazette as if they were in force.²¹

However, recently it has been noticed that the Official Gazette has started publishing notices about the judgments of the Constitutional Court regarding the relevant laws. It is noted that the Official Gazette has published the notification regarding the Law no. 06 / L-114 on Public Officials, which also contains the Judgment KO 203/19 of the Constitutional Court, although some provisions of this law will not be implemented by the independent institutions of the Republic of Kosovo, but such a thing does not happen when it comes to the Law no. 06/L-048 on the Independent Oversight Board for the Civil Service of Kosovo, for which the Constitutional Court has published a judgment and by this judgement repealed some provisions of this law.

¹⁹Ombudsperson Institution - Annual Report 2018, page 31.

²⁰Ombudsperson Institution -Annual Report 2019, page 22.

²¹Ibid, page 24.

Therefore, the Ombudsperson deems it necessary to reiterate his position on this issue, so that the laws that have been partially or completely repealed by the Constitutional Court of Kosovo, at the moment of publication in the Official Gazette, should indicate that such provisions have been repealed by the judgments of the Constitutional Court.

Judicial system

Legal protection of human rights during the COVID-19 pandemics

Outbreak of COVID-19 virus in the Republic of Kosovo, in March 2020, presented the country's need for taking protective measures to preserve public health. The Government of the Republic of Kosovo issued decisions on the state of emergency in public health, which limited the work of public institutions, where some of them are completely closed.²² These decisions also had negative impacts on the functioning of the country's judiciary and reduced the work of the courts²³ and the prosecution only in reviewing cases where the public is excluded, in urgent cases and with reduced staff.²⁴

This new situation in the judiciary affected the further deterioration, the efficiency of setting court cases within legal deadlines and increased the number of unresolved cases at the national level. This will affect citizens' dissatisfaction with human rights and freedoms, for the legal protection of their rights.

Regarding the mandate of the Ombudsperson in the protection of human rights and freedoms in the field of judiciary, this is defined by the Law on Ombudsperson, according to which the Ombudsperson may provide general recommendations on the functioning of the judicial system, without interfering in cases and legal proceedings that are taking place before the courts, except for issues related to claims for the administration of justice, respectively with cases of delays in court proceedings and non-execution of court decisions.²⁵

²²Decision no.01 / 07, dated 15.3.2020 and Decision no.01 / 11, dated 15.3.2020, of the Government of the Republic of Kosovo. <https://kryeministri-ks.net/wp-content/uploads/2020/03/Vendimi-nr.01-11.pdf>

²³Kosovo Judicial Council, Decision KJC.no. 52/2020, dated 12 March 2020 (link: https://www.gjyqesori-rks.org/wp-content/uploads/decisions/13755_Vendimi_Nr_52_2020_Kufizohen_perkohehisht_veprimtarit_gjyqesore.pdf); Kosovo Judicial Council, Decision KJC.No. 83/2020, May 2020, source: https://www.gjyqesori-rks.org/wp-content/uploads/decisions/57454_Vendimi_KGJK_Nr_83_2020_Shtohet_aktiviteti_punes_se_Keshillit_Gjyqesor_te_Kosoves_dhe_te_gjitha_Gjykatat_vendit..pdf

²⁴Kosovo Prosecutorial Council, "Decision - Essentially reduced activities within the Kosovo Prosecutorial Council and the State Prosecutor", March 2020, source: https://prokuroria-rks.org/kpk/lajm/4638_dhe_Kosovo_Prosecutorial_Council,_Decision_KPK.nr.462_/2020,_May_2020,_source:_https://prokuroria-rks.org/assets/cms/uploads/files/Dokumente%20Publikime/KPK/Vendime/Vendim%20Nr.462.2020%20-%20Shtohen%20aktivitetet%20e%20pun%C3%ABs%20n%C3%AB%20sistem%C3%AB%20prokurorial.pdf

²⁵See Law no.05 / L-019 on Ombudsperson, Article 16, paragraph 8.

The Ombudsperson may appear in the capacity of the Court's friend (*amicus curiae*) in judicial processes dealing with human rights, equality and protection from discrimination as well as to initiate administrative conflict when it is in the interest of the general public.²⁶

The Ombudsperson may also initiate matters to the Constitutional Court in accordance with the Constitution and Law on the Constitutional Court, and request from the Constitutional Court to carry out abstract review of the constitutionality of laws, decrees of the President and Prime Minister, regulations of the Government and the Statutes of the Municipalities.²⁷

Delay of judicial proceedings

As in previous years, the Ombudsperson continues to receive complaints against courts with allegations of unjustifiable delays in the review / decision of their cases by the courts.

Complaints received mainly relate to delays in proceedings for civil disputes, property disputes, employment disputes, administrative disputes, as well as complaints for non-execution of final court decisions. This situation comes as a result of the large number of old cases pending, and the submission of new cases, from the reversal of the decisions of the courts of first instance and their return for reconsideration and reinstatement, where the case receives a new number and is handled as a new case, due to the limited number of judges and their transfer to other positions and levels of the court. Furthermore, it should be noted that the COVID-19 pandemic was an additional challenge for the judicial system, as for a certain period of time, due to a health emergency the courts suspended court hearings and worked only with essential staff. There were also cases when the court staff were infected with COVID-19, therefore they were forced to receive medical assistance, some others got quarantined and self-isolated, therefore until the release of the measures and the improvement of the epidemiological situation, the courts worked only with cases of urgent nature, therefore this situation brought new burdens on the courts and consequently further delays.

According to the KJC Statistical Report, at the beginning of 2020 there were a total of 248,250 cases pending at all levels of the courts. While at the end of 2020 they managed to solve 72,145 cases, there were still 176,105 cases pending. These notes, according to the report, are clear indicators of the serious situation in the country's judiciary regarding cases pending.

Based on the number of complaints submitted to the OIK during this reporting year, it results that citizens continue to distrust the judicial system. Out of the total number of complaints received, the complaints against courts are ranked in second place with 25% of the total number of complaints. While when talking about open cases and investigations, the courts are with 27% of cases. So the citizens are still facing delays in solving their cases by the courts, at all levels of the courts. Regarding regular courts, it should be noted that citizens mainly

²⁶See Law no.03 / L-202 on Administrative Conflicts, article 10, par. 2, and Article 18.

²⁷See Constitution, Article 113, paragraph 2.

complain about delays in proceedings for years.²⁸ In this regard, the Ombudsperson during the reporting year has investigated cases for non-execution of final court decisions²⁹, which for years were not enforced by the courts. Therefore, these delays negatively affect the realization of guaranteed rights and further undermine the trust of citizens in the judicial system.

The Ombudsperson notes that the large number of requests for monitoring is an indication that citizens still have the impression of a lack of objectivity of judges in deciding their cases.³⁰ The Ombudsperson has published two reports with recommendations and a Letter of Recommendation to the courts.

The Ombudsperson, according to the law³¹, during the reporting period, appeared in 4 cases as a Court's friend (*amicus curiae*) in court proceedings related to human rights, equality issues and protection against discrimination.

The Ombudsperson has also received several complaints against prosecutors and from the cases investigated for four complaints, reports with recommendations have been finalized against the Basic Prosecution in Prishtina.

The Ombudsperson even in this reporting year has noticed that there have been cases when the complainants' bank accounts have been blocked as a result of the enforcement procedure by the court, due to the settlement of debts. From the investigated cases, it was concluded that even though the creditor was a beneficiary of the pension, the monetary income from the pension was blocked in the execution process, contrary to the law on enforcement procedure³², where legal restrictions are set for amounts which can not be subject to enforcement. It is worth mentioning that this year will be issued the instruction of the Supreme Court of Kosovo on the clarification of competencies between courts and private enforcement agents. With the issuance of this instruction, it is clarified that court decisions regarding family matters, employees return to work and civil servants, as well as the compensation of personal income, are enforced by the courts.³³

²⁸ See: OIK, A.nr.717/2020, legal-civil dispute verification of ownership, started in 1992, without a final decision until 2009, in which case the procedure is suspended, because the claimant died and in 2019 as result this procedure continued by his heirs, but now with new case number C.nr.150/ 19.

²⁹ See: OIK, A.nr.99/2020.

³⁰ See: OIK, A..nr.365/2020, OI: A.nr.675/2020, OIK: A.nr.674/2020, OIK: A.nr.617/2020, OIK: A.nr.609/2020, OI: A.nr.599/2020, OI: A.nr.588/2020.

³¹ Law no.05 / L-019 on Ombudsperson, Article 16, paragraph 9, stipulates: "*The Ombudsperson may appear in the capacity of the friend of the court (amicus curiae) in judicial processes dealing with human rights, equality and protection from discrimination.*"

³² Law no.04 / L-139 on Enforcement Procedure, Article 112, Limitation of enforcement, paragraph 1, stipulates: "*Enforcement against personal incomes, on reward instead of salary and on pensions, may be assigned and applied up to the half of their amount. The amount to be sequestered shall be limited in the part that exceeds the amount of social benefit paid in the territory where the debtor lives.*"

³³ Instruction no.55 / 2020, dated 2.10.2020, Supreme Court of Kosovo.

A transparent, efficient and independent judiciary is the main mechanism to ensure the rule of law as one of the highest constitutional values of the Republic of Kosovo that is concretized through court decisions by creating a framework for democratic societies and the protection of fundamental rights.

Based on the Law on Courts³⁴, all courts in the country are obliged to publish the final court decisions on their official websites, by setting the legal deadlines as well. The publication of judgments helps the judicial system to be more transparent and accountable before the citizens. The Ombudsperson notes that even during this reporting period there is an increasing trend in the number of published judgments. According to statistics from the Kosovo Judicial Council (KJC), a total of 37,729 judgments have been published so far.

Disciplinary liability of judges and prosecutors

Law no. 06/1-057 on disciplinary liability of judges and prosecutors, adopted by the Assembly of the Republic of Kosovo, vests the Ombudsperson with additional competencies, including: 1) the competence to request the Prosecutorial and the Judicial Council of Kosovo to initiate disciplinary proceedings, and (2) the competence to appeal to the Supreme Court, in individual cases.

The Ombudsperson also in the Annual Report 2019 has emphasized that both competencies are additional competencies of the Ombudsperson, taking into account the Law on the Ombudsperson, other applicable laws and the opinions of the Venice Commission.

With regard to the competence to request disciplinary proceedings, Law 05/L-019 on the Ombudsperson, in Article 25, paragraph 2, recognizes this competence only in specific situations, namely in cases of failure to cooperate with the Ombudsperson: *“Refusal to cooperate with the Ombudsperson by a civil officer, a functionary or public authority is a reason that the Ombudsperson requires from the competent body initiation of administrative proceedings, including disciplinary measures, up to dismiss from work or from civil service.”* Whereas, as seen above, the said Law exceeds this provision, thus giving the Ombudsperson the competence to request the initiation of disciplinary procedures even in the event of failure to comply with the timeframes for rendering decisions, as well as in cases of dismissal of complaints without meeting the legal requirements. As for competence to submit an appeal to the Supreme Court, the situation is even more distinct, since providing the Ombudsperson with competencies to initiate appeals directly to the Supreme Court in certain cases, the law in question exceeds not only international standards under the Venice Commission³⁵, but also the current competencies of the Ombudsperson under previous laws of Republic of Kosovo.

³⁴Law no.06 / L-054 on Courts, Article 6, Court Decisions, paragraph 3, stipulates: *“The courts shall publish all judgments on their official website within sixty (60) days from the date of issuance of the judgment in accordance with the legislation in force.”*

³⁵ CDL-AD(2007) 024, *Opinion on the draft law on the Ombudsperson of Kosovo adopted by the Venice Commission at its 71st Plenary Meeting* (Venecia, 1-2 qershor 2007), §19).

The Ombudsperson, based on Article 16, paragraph 8, the Law 05/L-019 on the Ombudsperson, may provide general recommendations on the functioning of the judicial system but will not intervene in the cases and other legal procedures that are taking place before the courts, except in case of delays of procedures. The Ombudsperson, under other applicable laws, has the right to only: (1) initiate court cases in general cases, but not in individual cases, or (2) intervene in individual cases, but not initiate complaints in such cases. For example, the Ombudsperson:

- may present arguments in support of any party to the proceedings in the capacity of *amicus curiae*,³⁶ however, the same may not submit complaints on behalf of that party;
- may initiate administrative conflict where such action is in the interest of the general public,³⁷ but not in the case of individuals; and
- may request the Constitutional Court to carry out abstract review of the constitutionality of laws, decrees of the President and Prime Minister, regulations of the Government and the Statutes of the Municipalities³⁸.

During the reporting year, based on Law no. 06/1-057 on disciplinary liability of judges and prosecutors, the Ombudsperson has received 15 complaints, which have been processed as defined by the above law. Out of these 15 complaints, 11 were declared as admissible and 4 of them as inadmissible. It is worth mentioning that for all these cases, the Ombudsperson has received responses from the responsible authorities within the legal deadline and there has been good cooperation between them.

Executive power

The work of the executive for the reporting year is undoubtedly largely characterized by the COVID-19 pandemic and its impact on the work of the executive.

The COVID-19 pandemic poses an unprecedented human rights challenge worldwide. The circumstances created by the COVID-19 virus and the danger it poses to the life and health of citizens require a balance between the right to life, which may not be restricted under any circumstances and other rights to which the Constitution and international human rights instruments permit restrictions, in certain circumstances. The Ombudsperson considers that the COVID-19 pandemic falls within the scope of the definitions of threat to the health and life of citizens and the state is obliged to take measures to protect their life and health, where, among other things and in general, was the position of the Ombudsperson expressed in two opinions, which have been referred to the Constitutional Court regarding the Government decision restricting freedom of movement and freedom of assembly.

³⁶See Law on the Ombudsperson, Article 16, par. 9, and Law no. 05 / L-021 on Protection from Discrimination, article 9, par. 2, subpar. 13.

³⁷See Law on Administrative Conflicts, Article 10, par. 2.

³⁸See Constitution, Article 113, par.2.

On January 31, 2020, the World Health Organization (WHO) declared a global health emergency, due to the spread of the COVID-19 virus. Then, as a result of its spread with unpredictable rates and consequences, on March 11, 2020, the WHO declared a global pandemic.

On March 13, 2020, the first two cases of COVID-19 in Kosovo were confirmed and consequently the Government of the Republic of Kosovo began to take the first measures to prevent the spread of this virus.

On March 30, 2020, the Government of the Republic of Kosovo issued a Decision no. 01/19, whereby approved the Fiscal Emergency Package. On April 3, 2020 issued a Decision no. 31/2020, approving the Operational Plan of the Emergency Package, while on April 17, 2020, issued a Decision no. 06/25 for the completion of the Emergency Fiscal Package.

What can be seen from the media reports regarding the implementation of the Fiscal Emergency Package is that applying for the benefit of some measures has been a complicated procedure.³⁹ Also, it has been noted from media reports that there have been delays in the implementation of payments for the relevant measures of the Fiscal Emergency Package. Then there were salary delays of some employees from the Fiscal Emergency Package due to the fact that their data were wrongly uploaded to the system during the application to take advantage of this package etc. In this case, individual complaints have been submitted to the Ombudsperson, which are under investigation.

On April 15, 2020, by the Government decision, strict movement restrictions have entered into force. The Ombudsperson has closely monitored the Government's decisions, which restrictive measures were intended to protect public health from the COVID-19 pandemic.

As of March 15 until December 31, the Ombudsperson has received 64 complaints related to the pandemic, where for 39 cases investigation procedures have been initiated. While ex officio has opened 9 cases related to the pandemic situation, they are as follows:

A case regarding arrest of citizens for non-compliance with the decision of the Ministry of Health, dated 14 April 2020:⁴⁰

According to the urgent request addressed to the Constitutional Court for submission of comments regarding the imposition of an interim measure related to the request of the President of the Republic of Kosovo, through which the President, in his capacity as Applicant, has requested the court to: *“Assess the constitutionality of the Decision of the Government of the Republic of Kosovo no.01 / 15, dated 23/03/2020, to verify whether it is in accordance with the Constitution of the Republic of Kosovo regarding the restriction of fundamental rights and freedoms protected by the Constitution.”*⁴¹ In this regard, the

³⁹ <https://kosovotwopointzero.com/brengat-karshi-pakos-emergjente-fiskale/>

⁴⁰ Case no. 310/2020.

⁴¹ Case no. 252/2020.

Ombudsperson has sent its Opinion to the Constitutional Court regarding case no. KO 54/20, according to the notification of the Constitutional Court for the registration of the request for submission of comments with reference no. KK 57/19, dated 24 March 2020.

A case regarding decisions of the Ministry of Health for restriction of freedom of movement during the pandemic (Decision no. 2381IV/ 2020, dated 14.04.2020, Decision no. 229 / IV / 2020, dated 14.04.2020, Decision no. 2141IV/2020, dated 12.04.2020, Decision No. 2391IV / 2020, dated 14.04.2020).⁴² The Ombudsperson has sent an Opinion regarding the case no KO 61/20, according to the notification of the Constitutional Court for the registration of the request for submission of comments with reference no. KK 82/20, dated 20 April 2020.

A case regarding restrictions of the right to privacy of citizens affected by COVID-19, from the publication of their data by the media and journalists.⁴³

A case regarding provision of health services during the COVID-19 pandemic.⁴⁴

A case regarding Decision no. 31/20120, dated 3.4.2020, of the Ministry of Finance on the approval of the Operational Plan for the Fiscal Emergency Package.⁴⁵

A case regarding licensing of private laboratories for PCR and serological testing by the Ministry of Health.⁴⁶

A case regarding a victim A. G. who lost his life on May 3, 2020 while being quarantined at the Student Centre, at the time of the COVID-19 pandemic.⁴⁷

A case regarding violation of the rights of persons affected by HIV/AIDS and Tuberculosis (TB) in Kosovo in the context of SDG3, i.e. the Universal Health Coverage, including their rights during the pandemic with COVID-19 in the Republic of Kosovo.⁴⁸

The Ombudsperson's recommendation addressed to the Ministry of Health and the NIPHK, regarding the complaint of RTV "KiM" from Caglavica,⁴⁹ according to which the MoH and the NIPHK, through their official websites are not informing citizens and the public in Serbian language about the public health emergency situation caused by the COVID-19 pandemic.

The Ombudsperson's recommendation to the MoH and NIPHK to act in accordance with the provisions of Article 5, paragraph 1, of the Constitution and Law no. 02/ L-37 on the Use of Languages, so that, immediately and in a timely manner, through their official websites, they

⁴²Case no. 287/2020.

⁴³Case no. 256/2020.

⁴⁴Case no. 434/2020.

⁴⁵Case no. 488/2020.

⁴⁶Case no. 489/2020.

⁴⁷Case no. 704/2020.

⁴⁸Case no. 698/2020.

⁴⁹Case no. 250/2020.

shall inform the citizens and the public in both official languages of the Republic of Kosovo, in accordance with the above-mentioned constitutional and legal provisions.

The Ombudsperson has also issued an Opinion related to requests for the release of prisoners of certain categories during the COVID-19 pandemic.⁵⁰ Through this Opinion, the Ombudsperson, among others, has reminded all competent bodies of the Republic of Kosovo, which are responsible for persons deprived of liberty, of the absolute nature of the prohibition of torture and inhuman and degrading treatment, which is provided by the Constitution of the Republic of Kosovo, with relevant local legislation, as well as with international human rights standards.

Regarding issues not related to the COVID-19 pandemic, the Ombudsperson issued the following recommendations and expressed his views on human rights violations:

Recommendation addressed to the Municipality of Prishtina, Inspectorate of the Ministry of Economy and Environment and for the Ministry of Economy and Environment, regarding the violation of the right to a safe and healthy environment,⁵¹ where the responsible authorities are asked to remedy the source of pollution, in order to provide neighbourhood⁵² residents with a clean, safe and healthy environment.

Recommendation addressed to the Ministry of Culture, Youth and Sports and to the Ministry of Internal Affairs and Public Administration regarding the issue of presumption of innocence. The Ombudsperson has also drawn attention to the constitutional and legal obligations of the competent bodies for respecting the principle of presumption of innocence, as one of the fundamental rights and fundamental guarantees for every person, as well as respect for the presumption of innocence regarding the effective recognition of the rights of suspects and accused persons, such as *their right to employment*.⁵³

Recommendation addressed to the Municipality of Gracanica, Municipality of Prishtina and Ministry of Economy and Environment regarding the violation of the right to a safe and healthy environment, as a result of the pollution of the Gracanka River. The Ombudsperson asked the responsible authorities to take the necessary and effective actions to stop pollution and clean up the Gracanka River.⁵⁴

Regarding the lack of providing equal access to interurban transport of blind persons, in accordance with Kosovo Law no.04/L-092 for Blind Persons⁵⁵, recommendation has been addressed to the Ministry of Infrastructure.

⁵⁰Case no. 38/2020.

⁵¹ A.nr. 342/2018.

⁵² Neighborhood Mati 1.

⁵³ A.nr. 314/2018.

⁵⁴Ex-officio case no.631/2019.

⁵⁵ A.nr. 899/2018.

Recommendation addressed to the Municipality of Kamenica and Ministry of Education and Science regarding the reorganization of pre-university education in the Municipality of Kamenica⁵⁶,

Recommendation addressed to Kosovo municipalities (Municipality of Prishtina, Municipality of Gracanica, Municipality of Fushe Kosovo, Municipality of Lipjan, Municipality of South Mitrovica, Municipality of Vushtrri, Municipality of Ferizaj, Municipality of Peja, Municipality of North Mitrovica, Municipality of Gjakova, Municipality of Klina and Municipality of Istog) regarding the legal identity of unregistered persons.⁵⁷

Recommendation addressed to the Complaints Commission for Foreigners, regarding the rejection of the applicant's application for a residence permit in the Republic of Kosovo.⁵⁸

Recommendation addressed to the Ministry of Agriculture, Forestry and Rural Development, for the Ministry of Education and Science, for the Food and Veterinary Agency, and for all municipalities of Kosovo, in relation to the danger posed to citizens by stray dogs.⁵⁹

Recommendation addressed to the Ministry of Foreign Affairs and Diaspora, regarding the confirmation of the accuracy and veracity of diplomas obtained abroad, as a criterion of competitions announced by this ministry.⁶⁰

Recommendation addressed to the Ministry of Internal Affairs, regarding the application of the main principles respectively the basic obligations for effective investigations within a reasonable timeframe. The Ombudsperson has recommended the Ministry of Internal Affairs to issue an instruction asking the PIK during the exercise of their activity to act in accordance with the Constitution, the Criminal Code, the Criminal Procedure Code, as well as with the laws and sub-legal acts in force and to take all necessary measures to increase the professional capacity of PIK officials, in terms of practical implementation of the law and respect for fundamental human rights and freedoms.⁶¹

For the Kosovo Police, regarding the implementation of the decision of the Basic Court in Prishtina for the security measure (C.nr.1140/17, dated 8 November 2017).⁶²

Recommendation addressed to the Municipal Education Directorate in Vushtrri, regarding the undertaking of necessary actions for the provision of appropriate public transport for the complainant's children, in accordance with the legislation in force.⁶³

⁵⁶Ex-officio case no.720/2019.

⁵⁷ Ex officio case no. 148/2020.

⁵⁸ A.nr. 555/2020.

⁵⁹ Ex officio case no 517/2019.

⁶⁰ A.nr. 737/2019.

⁶¹ A.nr. 717/2019.

⁶² A.nr. 866/2019.

⁶³ A.nr.457/2019.

Recommendation addressed to the Specialized Mathematical Gymnasium in Prishtina and to the Inspectorate of Education, regarding the individual complaint, where, among other things, they were asked to act in accordance with the Law on General Administrative Procedure, as well as the Law on the Education Inspectorate of the Republic of Kosovo.⁶⁴

Recommendation addressed to the Ministry of Justice, regarding the approval of the amendment and supplementation of the Administrative Instruction on fees for rewards and compensation of the expenses for private enforcement agents, which derives from the obligations of Law no. 05/L-118 on Amending and Supplementing Law no. 04/L-139 on Enforcement Procedure (Article 32).⁶⁵

Recommendation addressed to the Ministry of Education and Science, regarding verification of diplomas and the approval of unique instructions so that the recognition of high school diplomas be reviewed by the competent institutions, for the initiation of certain activities and for finding a solution which should be applicable to all citizens who have received high school diplomas in Kosovo in the Serbian language.⁶⁶

Recommendation addressed to the Municipality of Prishtina, regarding the lack of adequate conditions for the realization of the teaching process in the school “Mother Teresa” in the village of Vranidoll, municipality of Prishtina.⁶⁷

Recommendation has been addressed to the Municipality of Ferizaj, in case of manifestation of their will through an administrative act, to strictly adhere to the Law on General Administrative Procedure.⁶⁸

Recommendation addressed to the Ministry of Infrastructure, Municipality of Prishtina, Municipality of Fushe Kosovo, Municipality of Klokot, Municipality of Gjilan, Kosovo Prosecutorial Council, regarding the violation of the right to access public documents.⁶⁹

Public administration reform

The Ombudsperson, at the end of 2019, had raised the issue of compliance of the Law no. 06/L-114 on Public Officials and Law no. 06/L-111 on Salaries in Public Sector with the Constitution of the Republic of Kosovo.

During the reporting year, the Constitutional Court issued the decision on the Ombudsperson's requests.

On June 30, 2020, the Constitutional Court rendered a Judgment KO 203/19 regarding the assessment of the constitutionality of Law no. 06/L-114 on Public Officials. In assessing the

⁶⁴ A.nr.953/2019.

⁶⁵ A.nr.396/2017.

⁶⁶ A.nr.210/2019.

⁶⁷ Ex officio case no. 249/2020.

⁶⁸ A.nr.185/2020.

⁶⁹ A.nr.763/2019; A.nr.508/2019; A.nr.314/2019; A.nr.694/2019; A.nr.280/2020.

constitutionality of Law no. 06/L-114 on Public Officials, the Court decided that the Request should be accepted for merit review; according to the Ombudsperson, that articles of Law no. 06/L-114 on Public Officials are in contradiction with articles 4, 7, 102, 108, 109, 110, 115, 132, 136, 139, 140 and 141 of the Constitution, that the contested law is not applicable to the Kosovo Judicial Council; Kosovo Prosecutorial Council; Constitutional Court; Ombudsperson Institution; Auditor General of Kosovo; Central Election Commission; Central Bank of Kosovo and Independent Media Commission, as long as their functional and organizational independence guaranteed by the Constitution is violated, that contested law does not violate the provisions of the Constitution in relation to the Kosovo Forensic Agency and the civil servants of the Kosovo Police; therefore the Assembly of the Republic of Kosovo must take the necessary actions to amend and supplement the Law no. 06/L-114 on Public Officials, in accordance with the findings of the Judgment of the Constitutional Court, regarding the employees of the institutions defined in point (iii) of the Judgment.

On June 30, 2020, the Constitutional Court rendered a Judgment KO 219/19 regarding the constitutional review of Law no. 06/L-111 on Salaries in the Public Sector. In assessing the constitutionality of Law no. 06/L-111 on Salaries in the Public Sector, the Court decided: the request is admissible on merit; that the challenged Law, in its entirety, is not in accordance with Articles 4, 7, 102, 103, 108, 109, 110 of Chapter VII, nor with Article 115 of Chapter VIII of the Constitution; nor with articles 132, 136, 139 and 141 of Chapter XII of the Constitution, as well as declared, in its entirety, the Law no. 06/L-111 on Salaries in Public Sector, as invalid.

Independent institutions and agencies

During the reporting year, the Ombudsperson issued recommendations to independent institutions and agencies, as follows:

Recommendation addressed to the Central Bank of Kosovo, in connection with the amendment of Article 4, paragraph 1, of the Regulation on the Implementation of the Bonus-Malus System. The Regulation on the Implementation of the Bonus-Malus System, which was issued by the Law on Compulsory Motor Liability Insurance, did not carry the spirit of the law regarding the bonus-malus system. The Ombudsperson has noted that the provision of the Regulation on the Implementation of the Bonus-Malus System (Article 4, paragraph 1) is contrary to the Law on Compulsory Motor Liability Insurance, but also contrary to the Law on Obligational relationships, regarding the issue of compensation. Therefore, recommendation has been addressed to the CBK to amend the Regulation on the Implementation of the Bonus-Malus System, respectively to amend Article 4, paragraph 1, reformulating it as follows: *“The right to a certain degree of premise (bonus-malus) relates to the owner of the vehicle and does not pass to the new owner.”* This is because according to the Regulation, insurance companies, in case of a traffic accident at situations when the driver of the vehicle is not the owner, in this case both the driver and the owner of the vehicle will

get fine. The Ombudsperson's recommendation was not implemented by the CBK during the reporting year.

Recommendation addressed to the Civil Aviation Authority (CAA), in relation to complaints of discrimination at work. ACC issued a Regulation of Internal Organization, through which it begins with the reassignment of management staff to new positions, issuing individual decisions, in which case the positions of 4 out of 6 directors of departments in CAA degraded. The Ombudsperson has concluded that the implementation of the Regulation on Internal Organization, dated July 9, 2019, in the ACC is not in accordance with Law no. 06/L-113 on the Organization and Functioning of the State Administration and Independent Agencies. The Ombudsperson therefore recommended to the ACC to annul the contested decisions, to implement the legislation in force and to eliminate all legal violations found by the Ombudsperson as well as to comply with the Law on Protection from Discrimination. The Ombudsperson's recommendations were not implemented by the ACC during the reporting year.

Recommendation addressed to the Privatization Agency of Kosovo (PAK), regarding the implementation of the Law no.05 / L-020 on Gender Equality regarding the minimum gender quota of fifty percent (50%) for each gender, in leading and decision-making positions in the Privatization Agency of Kosovo. The Ombudsperson's recommendation was not implemented by the PAK during the reporting year.

Sustainable Development Goals

In 2015, all United Nations Member States, adopted 17 objectives, as part of the 2030 Agenda for Sustainable Development Goals, which set out a 15-year plan to achieve these goals. In fact, the 17 objectives seek to build on and complement what has not been achieved with the Millennium Development Goals, adopted in 2000.

From the Ombudsperson's point of view, the Sustainable Development Goals, have the starting point in the Merida Declaration, which defines the role of National Human Rights Institutions in the implementation of the 2030 Agenda for Sustainable Development.

With the organisation of the National Commission for Human Rights in Mexico and in cooperation with the Office of the High Commissioner for Human Rights, the Twelfth International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights took place from 8 to 10 October 2015, in Mérida, Yucatàn, Mexico. Merida Declaration was also adopted at this conference.

Based on the statement content, the conference participants welcomed the adoption of the 2030 Agenda for Sustainable Development by the Member States of the United Nations, as a result of a global process. The 17 Sustainable Development Goals (SDG), and their 169 goals,

directly or indirectly reflect human rights⁷⁰ standards and integrate cross-cutting human rights principles, such as participation, accountability, and non-discrimination.

The Republic of Kosovo has expressed its commitment to the implementation of this global plan. In this regard, on January 25, 2018, the Assembly of the Republic of Kosovo, on the proposal of the Committee on Health, Labor and Social Welfare, issued Resolution no. 06-R-001 on the adoption of the Sustainable Development Goals, also undertaking to assist in the implementation of “...*this new global framework through the adoption of legislation, including the timely adoption of the necessary budget.*”

The Assembly of the Republic of Kosovo re-established the Council for Sustainable Development, which had started its operation in 2018, but due to political developments did not achieve the set objectives. The reactivation of the Council was made possible based on the cooperation of the Presidency of the Assembly of the Republic of Kosovo and the United Nations Development Coordination Office. Demonstrating the commitment of the Assembly, as was emphasized by the Speaker of the Assembly, stating that, “... the implementation of the Sustainable Development Agenda is a moral obligation to ensure a better present and a more secure future with well-being regardless.”

The Ombudsperson, as a constitutional institution with a mandate for protection and promotion of human rights and freedoms in Kosovo, and the Kosovo Agency of Statistics (KAS), as a professional and independent institution, which coordinates the statistical system of Kosovo, on 17 January 2020 signs a Memorandum of Understanding aimed at identifying and producing relevant indicators, including relevant contextual indicators, which are based on the guidelines on human rights indicators and Human Rights Based Approach to Data (HRBAD), compiled by the Office of the United Nations High Commissioner for Human Rights (OHCHR).

The OIK and KAS were supported by the Office of Human Rights of the United Nations Mission in Kosovo, respectively by the OHCHR in Geneva, through a workshop on the topic: “*Operationalization of the human rights-based approach to data and indicators in Kosovo*”, as a result of which the initial format of the Memorandum of Understanding was compiled and finalized with a signature of both parties.

Indicators are an essential tool for assessing progress in human rights and in implementing the 2030 Agenda for Sustainable Development. The Memorandum of Understanding between the OIK and KAS aims to collect statistical data and disaggregate as a way to address the challenges faced by target and marginalized groups. The two working groups are holding meetings and are in the process of mutual engagement and cooperation to achieve common goals.

⁷⁰See:<http://www.humanrights.dk/human-rights-guide-sdgs>

In January of this reporting year, the OIK conducted three information sessions on the 2030 Agenda. In three roundtables organized by the OIK in cooperation with UNDP, before judges, prosecutors, and human rights officials at the central and local level, in addition to the Platform for Human Rights, the 2030 Agenda and 17 Sustainable Development Goals were also presented. Special emphasis during the information and promotion for the goals of the 2030 Agenda was placed on the importance and responsibility of state actors towards its fulfilment and implementation in the country.

As the SDG can significantly contribute to the realization and fulfilment of human rights, the OIK, within the Platform for Human Rights⁷¹, has developed “*the Guide to Sustainable Development Goals related to Human Rights*”. This electronic format guide provides the essential link of 169 goals within the 17 Sustainable Development Goals with international instruments directly applicable in the Republic of Kosovo and in the implemented primary legislation. The guide is effective in understanding the relationship between the SDG and fundamental human rights and freedoms, and in understanding the structured links between the SDG and the legal instruments outlined above. In addition to promoting the SDG, the guide aims to assist in the development of national programs and strategies for the implementation of the 2030 Agenda, and can also assist in the development of various projects, research and reporting towards the achievement of the 2030 Agenda.

Responsibility regarding the living environment

Improving the living environment, the need for investment in the environment, and its protection is the country’s constitutional responsibility.⁷²

Despite the inevitable needs for orientation of state policies in the prevention and remediation of environmental problems, the fact that the Ministry of Environment and Spatial Planning (MESPP), as a competent body for the creation and implementation of legislation on general management of the environment, water, spatial planning, and housing construction, was merged with the Ministry of Infrastructure (Ministry of Infrastructure and Environment) and later with the Ministry of Economy (Ministry of Economy and Environment), shows the lack of sustainable policies, which will take a step forward in changing the living environment in the country, by not giving special priority to the issue of the environment.

Public dissatisfaction and reactions regarding the operation and installation of hydropower plants have continued. A separate problem in this regard is the lack of transparency and

⁷¹The Human Rights Platform was published by the OIK on December 10, 2019, in cooperation with UNDP and with the financial support of the Norwegian Ministry of Foreign Affairs. It provides two guides that will serve to provide easier and more practical access to domestic and international jurisdiction through structured links between legal instruments, which apply directly to the legal system of the Republic of Kosovo, as well as to demonstrate the links between SDGs and fundamental human rights and freedoms. Following is the link for access to the Platform: <https://humanrights.oik-rks.org/>

⁷² Article 52 of the Constitution of the Republic of Kosovo.

accountability of the competent bodies. No improvement has been registered regarding the issue of fragmentation and interventions on agricultural land⁷³ and the destruction of forest areas. Adherence to the three procedural principles of environmental law, the principle of public participation in decision-making, access to environmental information, and the principle of access to justice, have continued to be accompanied by obstacles and ambiguity. Environmental impact assessment and adherence to the three principles mentioned above would not only prevent and reduce the negative impacts of projects on the environment, but simultaneously would contribute to the protection of the environment and health as well as improving the quality of life.

Even this year, the competent bodies did not take preventive actions, nor to remedy the situation to ensure the sustainable and balanced development of spatial planning. No change has been observed in improving the coordination of cooperation between central and local level inspectorates, nor of the various bodies competent for the implementation of environmental legislation and in addition no effective solution has been made to remedy the irregularities related to the environment. Furthermore, pandemic protection measures have hampered the work of inspectorates.

Ecological tax, provided by the Law on Road and Ecological Tax For Vehicles⁷⁴, which aims to increase the quality of environmental protection continues not to be used by dedication of its collection.

The situation created by the pandemic reduced the space for promoting and educating the public about the right to a safe and healthy environment. Although the role of the media in terms of awareness and educating the public about the importance of environmental protection remains to be strengthened, the year of 2020 has marked a step forward. Greater media space and other forms of information related to environmental developments in the country have been observed. Investigative journalism has brought into public debate the discussion on topics not very well known to the public and constitutes progress in the development of environmental democracy. Although a network of civil society organizations dealing with environmental issues has not yet been established, the role of civil society, their engagement and responses, and the promotion of public debate on various environmental impacts need to be assessed.

As a step forward is the publication of the document of the Agency for Environmental Protection of Kosovo “Kosovo Environment 2020 - Report of environmental indicators”, which is an indicator of the state of the environment and environmental impact. There is still

⁷³ Law on Agricultural Land; article 2, Purpose: *“Agricultural land, as national wealth of general interest, shall have special protection and shall be used for agricultural production and may not be use for other purposes, except in cases as provided for by this law, and other provisions issued in accordance with this law.”*

⁷⁴ Law no. 04 / L-117 on Road and Ecological Tax For Vehicles, article 1, par 2.

a lack of research by the competent health institutions, which through indicators would show the impact of the living environment in public health.

On June 5, 2020, on the occasion of World Environment Day, the Ombudsperson through a press release drew the attention of country's institutions of the need for deeper commitment to take concrete and necessary measures for the protection and preservation of the environment in our country from further degradation, in order to respect the right of citizens to a safe and healthy environment. The Ombudsperson emphasized that the right to a safe and healthy environment is guaranteed by the country's constitution and as such is listed among the values on which the constitutional order is based, invited the country's institutions and especially the Assembly of the Republic of Kosovo to exercise effective control over the implementation of environmental standards and legislation by the government of the country. It also called on the judiciary to provide effective judicial protection to citizens regarding the handling of cases initiated in court for violation of environmental rights.⁷⁵

Despite the challenges created by the pandemic measures, the Ombudsperson, even during the reporting year, has continued to investigate cases related to the right to a safe and healthy environment, as well as the promotion of these rights.

Air

One of the issues identified by the Ombudsperson, during the reporting year, is the failure of the competent bodies to implement the planning, construction and inspection legislation to bring under control the ventilation infrastructure and the chimneys of the buildings and their impact on the environment. Also, spatial planning issues and omissions in the construction control process have limited the right to a safe and healthy environment, the citizens' right to privacy and full enjoyment of their homes.

The Ombudsperson published the Report with Recommendations A.nr.342/2018 regarding the violation of the right to a safe and healthy environment, as a result of the impact of air pollution. Investigations on this matter were initiated based on the individual complaint of Ms. L. P. regarding air pollution, caused by the chimney of the collective building, which is located near the complainant's property in the Mati 1 neighbourhood in Prishtina. The report aimed to draw attention of the competent authorities of the need to take immediate measures as positive state obligations to protect the air from pollution, as a necessity to provide citizens with a clean, safe and healthy environment and the right of privacy. The Ombudsperson through this report addressed recommendation to the Ministry of Economy and Environment and the Municipality of Prishtina, as responsible authorities, in accordance with the competencies and legal authorizations, asking to take all necessary actions to eliminate the cause of pollution.

⁷⁵ <https://www.oik-rks.org/2020/06/05/deklarate-e-avokatit-te-popullit-me-rastin-e-dites-boterore-kombetare-te-mjedisit/>

Water

Despite the legal obligations for the protection of water resources, pollution, overuse and misuse of rivers has continued at almost the same pace. No initiative has been noted towards improving the sustainable use of water resources, as necessary for public health, environmental protection, and socio-economic development of the country.

Preventive measures, measures to minimize the use and prevent pollution, the principle *polluter pays and the user pays* principle still remain unenforceable legal provisions. Action must be taken to reduce water losses, especially commercial losses⁷⁶.

Extraction of sand, gravel, stones, soil deposition, disposal of waste, solid materials and discharge of untreated liquid matter into water streams, lakes, accumulations and their shores has continued. Lack of control of arbitrary and no criteria interventions of sand and gravel exploiters have resulted in degradation of river beds, even altering the natural flow of these rivers and increase the risk of flooding. Among the most degraded rivers are Drini i Bardhe, Lumbardhi i Pejës, Ereniku, Ibri etc.

According to the Environmental Protection Agency, control of river losses has not yet been achieved⁷⁷. It is up to the responsible institutions to take serious measures to improve the security and management criteria.

The quality of river water from the source varies, deteriorating along the course. Pollution from sewage discharges into rivers and smells have continued to limit not only the right to a safe and healthy environment, but also the privacy of citizens and the enjoyment of citizens' property. The lack of river treatment prior to the discharge in rivers is estimated to be one of the main pollutants of surface water.⁷⁸

The country's water resources continue to be exploited by both operators and industry. The largest industrial users of water continue to be KEK, Feronikeli and Sharrçemi.

The Ombudsperson, on June 9, 2020, published the Report with recommendations Ex-officio no. 631/2019 regarding the violation of the right to a safe and healthy environment as a result of the pollution of the Gracanka River. The report aims to draw the attention of the competent authorities of the need to take immediate measures as positive obligations to protect the Gracanka River from pollution, as a necessity to protect the health of citizens and protect the environment. The report argues on the one hand the responsibilities of the state to avoid the harmful effects of river pollution and on the other hand the failure of the authorities to fulfil their obligations to prevent the impact of pollution on human rights, respectively the right to safe and healthy environment and in the right to privacy. The Ombudsperson through this

⁷⁶ Kosovo Report * 2020, European Commission, 6.20 Environment and Climate Change, p. 106.

⁷⁷ Kosovo Environmental Protection Agency - Kosovo Environment 2020, Environmental Indicators Report: "... losses in 2019 were about 90 million m³ of water, compared to the previous year."

⁷⁸Ibid

report recommended to the responsible authorities that, in accordance with the competencies and legal authorizations, they shall take all necessary and effective actions to protect the river from pollution.

Hydropower plants

The process of hydropower plants operation has been accompanied by consistent lack in terms of three-dimensional procedural aspect, access to information, public participation in decision-making and access to justice. The process was accompanied by a lack of transparency of the institutions responsible for the legality of their operation, as well as ambiguity regarding the procedures for organizing public hearings, as forms of public participation in decision-making.

While in the public there is a wide and comprehensive debate on the issue of the impact of the construction of hydropower plants on the environment, the degradation of river beds, exceeding the use of the allowed percentage of river water, non-fulfilment of contractual obligations by operators⁷⁹ and impact in the ecosystem, the actions of the institutions have continued to remain weak in terms of resolving the issue.

As a result of uncertainties, reactions of citizens and civil society, especially the impact on the environment, on August 14, 2020, the Assembly of the Republic of Kosovo, established the Parliamentary Commission of Inquiry on the process of licensing, operation, supervision and application for hydropower plant permits in order to address irregularities and uncertainties related to the operation of hydropower plants in the country. The commission in question has not managed to complete the task for which it has been established, at the end of 2020 has completed the work without achieving its goals, due to political developments.

The Ombudsperson is conducting investigations for 11 cases which are related to the issue of hydropower plants in the country.

Land

No policy-making developments have been observed regarding this, which would affect land protection and sustainable development and which would prevent the environmental and socio-economic consequences of land degradation.

The lack of commitment of the competent bodies to control the rapid conversion of the destination of agricultural land into construction land from constructions contrary to the criteria provided in the law remains a concern, despite the requirements arising from the Law on Spatial Planning; for sustainable and balanced development; for protection of agricultural

⁷⁹Contractual Agreement no. 937, dated 16.3.12, concluded between the Municipality of Deçan, Republic of Kosovo, with Kelkos Energu LLC, regarding the use of the immovable property of Deçan according to the Servitude Contract for the construction and operation of the hydropower generating unit "Belaje", "Deçan" and "Lumbardhi II", p. no. 9, Article 5, para. 1 - Obligations of Kelko LLC: "Ensuring a new construction of the Lumbardhi II lake reservoir, ..."

land and the environment; the non-engagement of the competent bodies of central and local level for controlling the rapid conversion of agricultural land into construction land continues.

Land data remains a problem. As a result of the lack of coordination of communication between the central and local level, we have not yet been able to have accurate data, which would be indicators of a proper land use planning, such as for agricultural production, construction or economic activity, an accurate database is required.

Deformation of land surfaces from landslides is noticed in the operating areas of KEK.⁸⁰ Waste in the form of radioactive oils, asbestos, metal, etc. have been identified. The closure and rehabilitation of the so-called Blue Lake as soon as possible should be considered, where hydraulic discharges (ash transfer)⁸¹, are made, and recultivation of degraded areas is improved.

Deforestation remains a concern. Degradation of forests by deforestation, fires, illegal construction and road and hydropower plant construction has continued. Reforestation and revitalization is not being done in close proportion to the degradation of degraded areas. The failure of institutions to control individual construction, as well as hydropower plants, has affected the degradation of the Sharr Mountains, even though since 2012 they have the status of National Park. Although there is still no data on illegal logging, the state of forests and arbitrary interventions by the human factor requires serious commitment from central, local and law enforcement institutions.

Operation of quarries in the country, especially the operation of illegal operators,⁸² remains one of the biggest issues with a serious impact on the environment. The situation on the field shows that the competent bodies have not managed to keep the economic operators under control regarding the implementation of the rules and criteria, which derive from the environmental legislation. As a result of the lack of coordination of the actions of the Independent Commission for Mines and Minerals (ICMM) and the Ministry of Economy and Environment (MEE), the process of licensing and permitting equipment for mining activities continues to be inconsistent with the places where the construction and industrial mineral resources of the country are concentrated, defined by the Mining Strategy of the Republic of Kosovo 2012-2025 of MEA. Legal possibility for the ICMM to issue a license and permit for use only with environmental consent, without an environmental permit issued by the MEE, is a vacuum which enables arbitrariness of operators and opportunities to avoid the actions of

⁸⁰Kosovo Environmental Protection Agency, Report on the state of the environment in Kosovo for 2018-2019.

⁸¹ Report on Kosovo* 2020, European Commission, 6.20, Environment and climate change, pg. 106.

⁸²<https://www.kosovo-mining.org/aktivitet/komunikate-per-media-prishtine-31-dhjetor-2019/>, "During 2019, the ICMM Inspectorate in the action for the implementation of the Operational Plan for the prevention and prohibition of illegal operations, together with the Kosovo Police, the Environmental Inspectorate, the Forestry Inspectorate and the Municipal Inspectorates. After the completion of this action in 194 places of illegal operations were placed the strips for stopping work of which are 99 separations, 16 exploitation, 78 concrete and asphalt bases as well as a processing factory."

the competent authorities for monitoring and inspection of activity, especially environmental conditions. Moreover, the right of citizens to a safe and healthy environment, with special emphasis on the right to privacy and enjoyment of the home of citizens, has been violated by non-compliance with the distance set by Law No. 03/I-163 on Mines and Minerals, 500 meters from the facilities and infrastructure for the development of mining activities. Also, a serious threat to public safety is posed by construction sites, which are not always fenced, allowing unimpeded access and at the same time transport of sand, mud, etc., on public roads.

The criteria for the programs for the rehabilitation of the exploited areas submitted by the operators when applying for a permit remain to be re-evaluated and seriously reviewed by the competent authorities. Despite the situation on the ground, the competent bodies: MEE and ICM, fail to adequately monitor and inspect the implementation of criteria, which will keep under control the protection of the environment from the operation of operators. Although three months before the expiration of the license and permit the recultivation or rehabilitation of the quarry sites should start, the situation on the ground, except in a few cases, shows indiscriminate interventions and environmental damage that require large investments for recultivation and return to the previous state. Failure to rehabilitate areas degraded by mining activity by operators requires serious review by competent bodies, and even addressing by the Assembly of the Republic of Kosovo.

Waste

Although individual initiatives for waste recycling from metals, plastics and paper are being developed, the country still does not have an organized waste processing and recycling system, which would adequately respond to the demands of the time and the development of sustainable final waste disposal methods in an environmentally acceptable manner.

A data system has not yet been established that would accurately provide complete data on waste generation, collection, treatment and disposal. The final collection, transport, treatment and disposal of waste, including monitoring and care even after carrying out these activities, have remained at the same stage.

Considering that the total service coverage for waste by the end of 2019 at the national level was 77.70%⁸³, means that 22.3% of the country's waste is dumped on land and in rivers. Although the number of illegal landfills has decreased⁸⁴, and the existence of 1489 illegal landfills is an indicator of the failure of the competent bodies for sustainable solutions, as well as educating citizens about the importance of proper waste treatment.

⁸³Kosovo Environmental Protection Agency, Annual Report on the state of the environment in Kosovo, 2018-2019, p. 43, the total amount of industrial waste generated was 2.5 tons, (2.554.308kg)

⁸⁴ Kosovo Environmental Protection Agency, Annual Report on the state of the environment in Kosovo, 2018-2019: Based on the reporting of municipalities, which is based on field research, in March 2019, related to 2018 at the national level were identified 2529, respectively from the field research in June 2020 related to 2019, were identified 1489 illegal landfills

Sanitary landfills managed by KLMC: Mirashi (Pristina), Dumnica (Podujeva), Velekinca (Gjilan) and Landovica (Prizren), and regional ones in Mitrovica (Germova), Peja and Dragash; despite the obligations for proper administration to reduce the risk from waste and in order to protect the environment and the health of citizens, continue to operate with problems, such as: non-functioning of landfill water pumping systems; poor compression of deposited waste and insufficient waste coverage; discharge from landfills of untreated water into rivers and their infiltration into groundwater.

Noise

Competent institutions at the municipal and central level again this year failed to provide citizens with effective protection from noise and its effects. Despite the harmful effects on human health, citizens continued to be confronted with various sources of noise. There was no significant improvement in the placement of noise protection panels on motorways, which would protect the settlements from noise. The current Law No. 02/L-102 on Noise Protection, did not achieve the goal of implementing noise reduction measures.

Area of special economic interest “Fusha e Mihjes së Re” [New Mining Field]

Even this year, the issue of expropriation for the inhabitants of the area of special economic interest "Fusha e Mihjes së Re" has not been resolved. Although the state of the environment is far from the desired standards and pollution rates according to existing reports, they often exceed the permissible limits set by local legislation, despite the positive obligation of the state, the relocation, expropriation or movement of a significant number of residents from those areas, as a proportionate and effective measure to resolve the issue, since 2004, has not yet been completed. The decision to divert the mining line by exceeding the rest of the villages of Hade and Sibovc, has left citizens in a difficult and unfinished condition, restricting their right to a safe and healthy environment, the right to life, privacy and enjoyment of property and freedom of movement.

Spatial planning

Although the environment is defined as a value on which the constitutional order of the Republic of Kosovo is based, despite the chaotic situation created with a negative impact on quality of life, no action has been taken, which would significantly improve the concept of spatial planning. Although the current situation is seriously affecting unequal treatment, restriction of free movement, the right to a safe and healthy environment, the issue has not yet been addressed by the responsible institutions.

From the field developments it is noted that despite the legal guarantees deriving from the Law on Spatial Planning, promoting the common interests of the citizens of Kosovo for high quality of life and sustainable systems for the development of settlements, as well as to protect natural resources and those of cultural heritage has failed. The non-inclusion of the interests

of all citizens, in particular the needs of people with disabilities, the elderly, children, young people,⁸⁵ within the detailed regulatory plans is assessed as a serious impact on human rights.

The issue of non-compliance with Construction Conditions⁸⁶, such as: *“Allowed height in relation to the distance from the border of the cadastral parcel along the public road; the allowed height in relation to the distance from the lateral and rear border of the cadastral parcel; percentage of the total area of greenery for absorption of atmospheric precipitation in relation to the area of the cadastral parcel; percentage of the total construction area within the allowed cadastral parcel in relation to the area of the cadastral parcel; minimum parking requirements; the right to natural light for existing windows; conditions of adequate access to public roads and technical infrastructure; restrictions on environmental pollution and noise according to the relevant legislation in force; measures for the protection of natural, historical and cultural values”*, and their impact on human rights, now need to be seriously considered not only by spatial planning bodies, but also beyond.

Despite the irregularities in the constructed facilities, the government has not yet managed to adopt the Unique Building Code, which would define the following: *“Minimum requirements for the protection of public health, safety and general well-being through the necessary resilience of the structure of emergency spaces, balance and stability, sanitation, construction waste management, adequate lighting and ventilation, energy efficiency and energy saving measures, and safety of life and property from fire and other hazards attributable to the construction environment, as well as to provide security for firefighters and other emergency responders.”*⁸⁷

Moreover, freedom of movement and the right to a safe and healthy environment for persons with disabilities is constantly being restricted by not improving the infrastructure for access to collective housing facilities, especially in buildings of public institutions, as provided by Administrative Instruction No. 33/2007 on Technical Conditions of Construction Facilities for Access for Persons with Disabilities.⁸⁸

Failure to control the compliance of construction buildings under construction and those completed with the construction permit, and non-issuance of permits/certificates of use is evidence of failure to meet the positive obligations of the competent bodies for the implementation of construction legislation. Lack of supervision and final certification of the use of facilities presents the immediate need for measures to be taken by the competent institutions to assess the safety of facilities for compliance with the rules set by construction

⁸⁵ Administrative Instruction MESP No. 01/2018 on Elements and Basic Requirements for the Design, Implementation and Monitoring of Detailed Regulatory Plans.

⁸⁶ Law No. 04/L-174 on Spatial Planning, Article 21: “Building Conditions”.

⁸⁷ Law No. 04/L –110 on Construction.

⁸⁸ Administrative Instruction no. 33/2007 on Technical Conditions of Construction Facilities for Access for Persons with Disabilities.

legislation, and above all with the rules of safety from natural and other disasters, and those against pollution and environmental degradation.

Sidewalk/path spaces continue to be insufficient compared to the number of inhabitants; height outside certain norms; lack of elements for unobstructed access and ramps which would enable uninterrupted connection between different levels of sidewalks.

Overall assessment

It is important to note that this year has recorded an increase in the reaction of citizens and civil society regarding the respect of the right to a safe and healthy environment, as well as the respect of the constitutional right to participate in environmental decision-making. The reaction of citizens and civil society regarding the construction of hydropower plants has continued stronger.

Although access to environmental information in the country is a right guaranteed by environmental legislation as well as the Law on Access to Public Documents ⁸⁹, the Ombudsperson has noticed that access to documents with environmental content, or processes related to the environment, has continued to remain at the will of institutions.

The processes of organizing public participation in decision-making are being followed with much uncertainty. While the public has reacted to the lack of information on the organization of public hearings, the responsible institutions have not managed to document through facts that the call/invitation to participate was made through accessible means of information.

Limitation, dismissal and procrastination of cases by the country's prosecutors and courts is a recurring issue. The capacities of prosecutors and judges, Kosovo Police, in particular the central and local level inspectorates, remain to be strengthened, regarding the articles arising from Chapter XXVIII - Criminal Offenses Against the Environment, Animals, Plants and Cultural Objects, of the Criminal Code. The Kosovo Prosecutorial Council and the Kosovo Judicial Council have not yet managed to build a database that would filter out environmental cases.

The non-application of the principle '*polluter pays*', the rehabilitation of degraded areas and the non-implementation of other provisions of environmental laws to the causes of environmental damage has continued.

The non-functioning of the Health Information System (HIS) is affecting the lack of factual data, which would reflect the impact of environmental pollution on the life and health of citizens and at the same time would be indicators through which environmental diseases would be identified. The lack of data from the HIS is affecting the lack of research from the

⁸⁹Law on Access to Public Documents. Article 17, para. 3.3, of the law which regulates: "*Permissible grounds for refusing access to public documents*", states emphatically that access to public documents is always allowed, if: "*the requested public document relates to the environment, waste, hazardous substances or information of environmental safety reports as provided for by the relevant environmental protection law.*"

National Institute of Public Health of Kosovo (NIPHK), which would clearly reflect the impact of pollution on the health of citizens.

Despite the need for effective responses in various areas of the environment, the actions of the MEE inspectorate and municipal environmental inspectorates remain weak. Despite the damage and serious damages caused to the environment, inspectorates often focus on initiating misdemeanor proceedings instead of criminal ones, as a form of sanction.

The cooperation and coordination of the competent bodies for environmental protection remains to be improved in terms of strengthening and coordination of activities between inspectorates, Kosovo police, prosecutors, courts and other institutions in the country, in terms of environmental protection.

The right of access to public documents

The right of access to public documents guarantees to every person the right of access to public documents, with the exception of access to information restricted by law (Article 41 of the Constitution and the Law on Access to Public Documents). This right is not an absolute right, but it is a right which must be balanced with other rights, without harming other interests.

This right is also guaranteed by international instruments, which are directly applicable in the legal order of the country: Universal Declaration of Human Rights; European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols; and the International Covenant on Civil and Political Rights and its Protocols. These international instruments, guaranteed by the Constitution of the Republic of Kosovo, directly implemented in the legal order of the country and with priority over local legislation, in case of conflict, guarantee the right to be informed, namely the right to access public documents.

Transparency and accountability are recognized as one of the most important principles in a democratic world, where both principles are at the service of responsible and functional governance. In a democratic state, transparent and accountable governance is intended to be achieved through the promotion of the public interest. In this regard, transparency in the function of responsibility and accountability means easy and unimpeded access of the public to data and documents produced, received, maintained or controlled by public institutions.

During 2020 until the day we are reporting, 62 complaints have been submitted to the OIK, which relate to access to public documents, two of them have been declared inadmissible, while the other 60 have been opened for investigation. Of these complaints, 39 were received from civil society and the media, while others were individual complaints. Responsible parties to these complaints are mainly central and local level (19 for ministries and 19 for municipalities).⁹⁰

⁹⁰Others: health institutions, Kosovo Police, PTK, courts, prosecutors, KPC, etc.

During the investigation of these complaints, it is noted that in most cases the responses of the institutions for receiving the request are timely and within the legal deadlines. However, the decision-making time for granting or refusing access exceeds the deadlines provided by law, despite the importance of providing timely information.

It has also been noted that delays in responding to granting, restricting or refusing access are often due to a lack of human capacity. In cases where public institutions refuse access or allow limited access, in most cases they fail to make a decision and provide reasoning based on law.

Then the state institutions, holders, compilers or recipients of information, in most cases have not classified the documents in time, or have not classified them at all, as provided by Law No. 03/L-178 on Classification of Information and Security Clearances. Failure to act, in accordance with this law, gives way to arbitrariness in deciding whether to allow or deny access to public documents. The Ombudsperson has reported this in previous years.

Since the declaration of a pandemic situation, as a reason for the delays in responding to access requests is the fact that institutions are working with reduced staff and remote work - from home.

The failure to elect of the commissioner of the Agency for Information and Privacy (AIP) has presented and continues to present an obstruction in the performance of the right of access, during the reporting year. In July 2019, Law No. 06/L-081 on Access to Public Documents has entered into force, which guarantees the right of every person, without discrimination on any grounds, to have access to public documents. This law entitles the information seeker to file a complaint to the AIP within fifteen days, in case the public institution has remained silent, has not responded, or has refused the request for access to public documents. The selection of the commissioner by the Assembly of the Republic of Kosovo has failed three times.⁹¹The absence of the AIP commissioner has also affected the non-issuance of sub-legal acts for the internal organization of the AIP, these acts necessary for the functioning of the AIP, that according to the Law on Personal Data Protection, must be issued 6 months after the entry into force of this law.

Easy and unhindered access to documents and information is important, which affects the building of trust between institutions and citizens in the transparency of actions, in the efficiency and effectiveness of public administration. The implementation of the Law on Access to Public Documents is important, in addition to transparency and accountability of the government, it is also for the awareness of the employees of the administration and for the obligation that they have in the provision of services to the citizens, but also for the awareness of the citizens for the services expected from the administration.

⁹¹For the first time, none of the candidates managed to qualify; in the second time, his selection failed due to the dissolution of the Assembly of the Republic of Kosovo; while in the third round, none of the candidates managed to get the required votes.

III. Rights of the child

III. Rights of the child

Children's rights are an integral part of human rights. Thus, children and young people have the same general human rights as adults and also specific rights that suit their special needs as children. Children are considered as right holders and active participants in their realization. The realization of rights enables children to develop to their full potential, recognizing their basic human dignity and urgency to ensure their well-being. Undoubtedly, the healthy development of children is essential for the future well-being of any society.

Because children are dependent on adults, they are more susceptible to major social changes, such as the COVID-19 pandemic. Therefore, the actions or inactions of institutions, society and parents can affect children more than any other social group. It is therefore important that these actions take into account the best interests of the child when drafting policies and legislation.

The analysis of the situation of children in Kosovo this year also shows that children still face difficulties in fully enjoying their rights. These difficulties are manifested in almost all areas of their lives, especially in the realization of the right to education and social and health protection. A life free from violence is a fundamental right and a necessary precondition for the well-being and physical and mental health of the child. Despite this, violence continues to be present in Kosovo. Children with disabilities, children in street situations are particularly vulnerable to violations of their rights, violence and discrimination. The OIK has included concrete recommendations for each of the areas addressed throughout the report. Naturally, it is essential that these processes incorporate the child's voice and point of view in accordance with the gradual development of his / her abilities.

The Constitution of the Republic of Kosovo expressly protects the rights of children and imposes legal obligations on the state to respect, protect and fulfill these rights, through the direct implementation of the Convention on the Rights of the Child (CRC). Completion of the legal framework with the Law on Child Protection and its entry into force in July 2020, marks an important step towards the realization of their rights. During this year, the OIK has launched Ex-officio 381/2020 investigations regarding the evaluation of the Law on Child Protection (LCP). The LCP has authorized the competent institutions to issue 17 sub-legal acts, and in fact none of them has been approved. However, the adoption of laws remains only a symbolic step if not followed by concrete steps and successful implementation. Exceptionally, the OIK, based on the authorization of the LCP and the Law on the Ombudsperson, has issued Regulation (OIK) no. 01/2019 on special procedures for admission, handling and addressing complaints filed by children or complaints related to children's rights. The regulation will be implemented by the OIK staff during the complaints procedures related to the rights of the child, based on the principles of non-discrimination, protection of the best interests of the child, respect for the dignity and personality of the child,

getting his opinion, addressing quickly and without unreasonable delays as well as providing personalized and specialized service for every child.⁹²

Complaints filed related to children's right

The Ombudsperson during this reporting year has received 55 complaints, a number of which is mainly filed by children's parents. Of this number, 14 were found as inadmissible considering that the matters they dealt with were outside the Ombudsperson's jurisdiction, there were no human rights violations, or the complainants were able to use or have used remedies. Out of 41 complaints placed under investigation, 11 of them have initiated ex officio.

Children's rights during the COVID-19 pandemic

The situation created by the global pandemic COVID-19 has highlighted even more the shortcomings for the realization of children's rights and has deepened the existing inequalities. The socio-economic effects of the virus and the measures taken to control the pandemic have affected the survival and health of children, safety, learning and potentially the risk of poverty. These effects in interaction with other factors, such as gender, ethnicity, disability and economic status have had different effects on children. An example was the transition from school to online learning, where it was found that many children did not have access to technological and internet equipment, especially Roma, Ashkali, Egyptian and children with disabilities. Especially for children with disabilities, this approach was more difficult as there were no appropriate curricula for their needs.

In general, during this time there have been difficulties for children to access education, social and health services and there has been an increase in domestic violence, and consequently violence against children. Furthermore, the limitations of ordinary living as well as the psycho-social stress caused by home confinement or isolation have affected the mental health of children. This pandemic has highlighted more than ever the importance of mental health programs and the access of all children to psycho-social services.

The OIK specifically requests the institutions to include specific measures to support children in street situations, children with disabilities and children in difficult economic situation when approving support packages. These measures should be accompanied by sustainable funding to respond to the health, social and economic crisis caused by COVID-19, including them as additional measures in order to ensure the life and health of children. Children's right to education

Cases related to the right to education, which were investigated by the Ombudsperson, including cases initiated ex officio, have addressed: the lack of conditions for education for

⁹² OIK, Regulation No. 01/2019 on Special Procedures for Admission, Handling and Addressing Complaints Filed by Children or Complaints relating to Children's Rights, 2019, Article 3

blind children; access to preschool institutions; reorganization of education in the municipality; school dropout due to the large home-school distance and the danger posed by passing through the mountain; and discrimination on the grounds of disability. Out of 15 cases received related to children's rights in education, 9 of them have been positively closed, while 6 are under investigation.

In one of the cases received after the parent's complaint, the OIK sent a letter of recommendation to the Municipal Directorate of Education (MED) in Vushtrri to take the necessary actions to ensure proper public transport for children from a village near Vushtrri. The children have not gone to school for three years, they dropped out school since the nearest school is about five kilometers away from home and the road to school passes through the mountain, which poses a danger to their lives. After evaluating the relevant information and documents, the Ombudsperson found that the issue of delaying the response from the MED of Vushtrri to the complainant's requests for providing transportation for pupils, in addition to being contrary to the obligations to review them within the legal deadline, is also contrary to the rights of children, in particular the right to education, which is a precondition for the realization of other children's rights, defined by applicable law, in connection with which the MED in Vushtrri should have undertaken appropriate action. The OIK was informed by the complainant that the children are now attending school, as the Municipality has cleaned the classroom in the old school and engaged the teaching staff to teach its children.

On February 25, 2020, the representative of the OIK, within the information campaign: "*Meet the Institution of the Ombudsperson*", had visited the school "Mother Teresa" in the village of Vranidoll. On this occasion he had noticed that the school in question was facing shortages and difficulties in carrying out the teaching process in its old annex and the pupils' right to life, health and social welfare was endangered. The Ombudsperson has recommended to the Municipality of Prishtina to urgently take appropriate actions for the renovation of the school building. The OIK has been informed by the Municipality that the construction of the new school has started.

Children with disabilities

Children with disabilities are still experiencing serious difficulties and facing barriers to the full enjoyment of the rights enshrined in the Law. Children with disabilities belong to one of the most vulnerable groups of children. This vulnerability varies depending on the interaction of different factors such as gender, rural residence, ethnicity or being a child in a street situation. Girls with disabilities are often even more vulnerable to discrimination due to gender discrimination. Special attention should, therefore, be given to them in order to take the necessary measures, especially in terms of protection against gender based violence, to ensure that they have access to all services and are fully involved in education and society. Kosovo is also aiming to implement a social model of disability where the obstacle is not in the disability itself, but in a combination of social, cultural, and physical obstacles that

children with disabilities face in their everyday lives. Such a definition is also included in the LCP, which contains some specific provisions addressing the protection of children with disabilities. Notwithstanding this legal protection and numerous other provisions scattered in various laws, the drafting of legislation is not sufficient for children to enjoy these rights but their proper implementation is needed. The lack of data remains problematic.

The Ombudsperson notes that there is a lack of comprehensive research and of accurate and complete data collection, which reflects the current situation of children with disabilities. Such research and data collection are essential for creating effective policies and allocating the resources needed to fund programs.

When making policies and decisions regarding children with disabilities, they should ensure that children are heard in all procedures that affect them, and that their views are respected in accordance with the gradual development of their abilities. Children should be provided with whatever means of communication they need to facilitate the expression of their views.

During this year, the Ombudsperson has received three cases regarding children with disabilities, one open ex-officio. The OIK has initiated ex-officio investigations against the Municipality of Peja regarding the crosswalk to the school for the blind "Xheladin Deda". The lack of a crosswalk endangers the lives of blind pupils every day and every time they cross the road, despite the countless requests that parents have addressed to the Municipality in the last ten years to build this infrastructure necessary to increase pupils safety.⁹³

While other cases were related to the provision of teaching assistants for children with disabilities, where, in one case, the complainant had complained against the Municipality of Prishtina - MED and against the Ministry of Education and Science (MES), regarding the employment of teaching assistants for her child with disabilities. In a similar case, the OIK received the complaint of the complainants against the Municipality of Prishtina, regarding the failure to announce vacancies for employment in the positions of *Assistants for children with special needs*. OIK has started investigations to contact the Municipality of Prishtina and the MES for more detailed information.⁹⁴

In 2019, the OIK had published the letter of recommendation 'Complaint 245/2012019' regarding the deprivation of the right to education for children with disabilities at the Learning and Counselling Resource Centre "Xheladin Deda" in Peja. In 2020, the OIK sent three repetitive letters to the MES, but did not receive any response.

Children's rights in proceedings before court bodies

Even during this reporting period, the OIK received a number of complaints against courts and prosecution offices. The complaints are mainly related to the delay of the court

⁹³Case 730/2020.

⁹⁴Case 536/2020.

proceedings for the execution of the court decision regarding the payment of alimony, failure to take appropriate actions to decide on the criminal report regarding the impossibility of establishing personal contact of the child with the parent, etc.⁹⁵

Social and health protection of children

The Ombudsperson, during the reporting period, has investigated three cases in the field of social and health protection of children. The cases concerned the request for accommodation of a minor after the completion of the educational measure, related to the suspicion of sexual assault; as well as the exercise of violence against children by the parent.

In previous reports, the Ombudsperson notes that the implementation of Article 4 of Law No. 04/L096 on amending and supplementing Law No. 2003/15 on Social Assistance Scheme in Kosovo has caused many families in serious material condition to remain without the social assistance they enjoyed until the child was five years old⁹⁶. Despite the fact that changes have been made to Article 4 of Law no. 2003/15, this in fact did not improve the situation of poorer households due to the fact of limiting the age of children. Moreover, the conditions for social assistance, with the legal provisions in force, have contributed to the deteriorating economic situation of many families, causing barriers and difficulties in child welfare and the well-being of families in general. These conditions in particular make it difficult for families in difficult socio-economic circumstances, especially for marginalized communities. The Ombudsperson notes that Article 4 of the Law, beyond all doubt, violates the best interest of the child, and the lack of social assistance for children and families in need conditions and affects the physical and mental health of the child as well as his/her education and development. The Ombudsperson has found that Article 4 of the Law is in violation of the Constitution of the Republic of Kosovo and international standards, in particular, the CRC. According to the data provided by the representatives of MLSW, the Ombudsperson has been informed that the ministry has approved the concept document for changing the social assistance scheme that eliminates this discriminatory criterion and the process of legal changes will take place during 2021.

In December 2019, the Ombudsperson published a report with recommendations ex-officio, which assessed that the provision of social services in the Republic of Kosovo is in line with human rights protection standards and provides specific recommendations to improve the current situation. The report found that social assistance and economic aid workers are not social workers, with the exception of a few, and that a significant majority of them completed secondary education only. Also, their number is insufficient to perform the duties of the CSW provided by law. In particular with regard to children, most CSWs are unable to meet the legal obligation regarding the Custodian Body. No CSW has a licensed psychologist who can provide a professional opinion on children's beliefs about adoption issues and other areas.

⁹⁵Cases: A.No.211/2020. 149/2020. 7/2020. 713/2020.

⁹⁶Among other things, see the Annual Report of OIK for 2019.

Also, the CSWs are not included in drafting of the municipal budget and municipalities do not provide funds to cover the needs of children, single parents, victims of trafficking, etc. Particularly problematic is the lack of contact space/room for establishing a childparent contact in cases parents are separated or divorced, or in the process of separation or divorce, and in cases of domestic violence. Out of 38 CSWs, 22 have no contact room at all. As the court's decision obliges the contact to be carried out within the premises of the Centre, and in order to do so, it is very often the case that the worker has to stay with the parent and child during the contact, or leave the office for them to stay together. In some Centres, workers are often forced to put the child and parent in a space where there is only a chair and nothing else, or in rooms without heating and without minimum requirements for staying, whether for 1 hour or longer, or are forced to not establish full contact due to poor conditions. The report finds that CSWs have become administrative-technical institutions due to the lack of professional staff and associated facilities to provide adequate services. There is a lack of oversight, planning, financing and service advancement in accordance with the needs of municipalities.

The Ombudsperson has recommended the Government of Kosovo, MLSW and municipalities to address the identified problems and, during 2020, has monitored their implementation. However, regarding the recommendation for the return of supervision, responsibility and management competencies to the CSWs under the relevant ministry, this recommendation was not accepted by the government, respectively by the MLSW with the reasoning, among other things, that it is not in accordance with the legislation nor with the initiatives of the government and MLSW for the advancement and development of social and family services. Regarding the amendment/supplement of the Law on Social and Family Services, through which the mandate, role, competencies, responsibilities and structure of the centres for social work would be fully regulated, MLSW has accepted the recommendation and has stated that the draft law is foreseen in the legislative program for next year. As for other recommendations, on 29 December 2020, MLSW notified the Ombudsperson that it has accepted the recommendations of the OIK for implementation. Among other things, it informed the OIK about the deadlines for the approval of the initiatives of the GRK and the line ministries, which will affect the advancement of social services and address the problems according to the report: Approval of the Law on Social Services by the Government of the Republic of Kosovo (2021); Approval of the Law on Local Government Finance by the Government of the Republic of Kosovo (2021); Drafting and approval of administrative instructions according to the new Law on Social and Family Services (2022-2023); Drafting and approval of the Administrative Instruction on the funding formula on Special Grant for Social Services (2021); Drafting the Regulation on Internal Systematization and Reorganization of MLSW (2021); Drafting the Law on the Social Assistance Scheme in Kosovo (2021); Drafting and approval of administrative instructions according to the new

Law on Social Assistance (2022); and Implementation of laws and sub-legal acts according to new legislation (2022-2023).

As for the municipalities, the mayor of Junik informed the Ombudsperson: “(...) *The CSW in the Municipality of Junik is fully functional, where all services are provided to citizens and the custodian body operating within the CSW is functioning (...).*” The Municipality of Partesh has informed the Ombudsperson that it has initiated the procedure for amending and supplementing the Statute of the Municipality, where, among other things, the creation of a new administration/directorate for health and social protection has been foreseen, where the Centre for Social Work and the Centre for Family Medicine will function within this directorate. In the budget for 2020, the municipality has provided the number of necessary staff and financial support for the work performance and tasks in these two centres, and any change in the statute will depend on the approval of the state budget, the approval of the staffing request and the financial support. The Municipality of Klllokot has announced: “*The facility for the Centre for Social Work has been built, but it is not functional yet, because the opening of this centre does not depend on the municipality but on the relevant Ministry.*” The Municipality of Gracanica responded, but not on the implementation of the recommendation, but requested additional meetings with the OIK; and the Municipality of Mamusha, which, despite sending two repetitive letters, did not respond at all⁹⁷.

Juvenile justice

Juvenile justice in Kosovo is regulated by the Juvenile Justice Code (JJC), which was approved by the Assembly of the Republic of Kosovo in September 2018. The JJC regulates criminal proceedings for juveniles by ensuring that their best interests are pursued based on respect for human rights and fundamental freedoms, prohibition of discrimination on any grounds and respect for the rights of children to express their views freely. The JJC also aims to avoid restriction of personal freedom of juveniles at the highest possible extent, and promoting of child-friendly approach. The JJC is directed at prioritizing the implementation of educational measures against prison sentences with a focus on prioritizing education and re-socialization, training and specialization through a multidisciplinary approach and institutional cooperation. Access to the education system is particularly important for the re-socialization and reintegration of juveniles into society.

Given the situation created by the COVID-19 pandemic, in May this year, the OIK, the UNICEF Office in Kosovo and KOMF sent a Joint Statement on the protection of the health and life of convicted juveniles to: the President, the Speaker of the Parliament, the Parliamentary Committee on Legislation, Mandates, Immunities, the Rules of Procedure of

⁹⁷Since the Ombudsperson Institution did not receive a response from the Municipality of Mamusha, in response to the recommendations in question, nor in the repetitive letter, on 12 November 2020, the second repetitive letter was sent to the Municipality of Mamusha reminding it of Article 132, paragraph 3, of the Constitution of the Republic of Kosovo and Articles 18 and 25 of Law No. 05/L-019 on Ombudsperson.

the Assembly and the Oversight of the Anti-Corruption Agency, the Judicial Council, the Prosecutorial Council and the Ministry of Justice.⁹⁸The statement calls on the institutions to consider the possibilities that are within the laws in force, as soon as possible, where the legal conditions are met, to take decisions, whether for replacement or for review of institutional educational measures, replacement of detention, early release, parole, or even for pardon of sentences.

Positive state obligations regarding the right to life

During 2020, the Ombudsperson monitored the implementation of the Report with recommendations ex-officio for the violation of the positive state obligations to protect the right to life in the case of K. V., whose life was taken by another person⁹⁹. The Chief Prosecutor of the Basic Prosecution office in Prishtina has notified the OIK that disciplinary proceedings have been initiated against two suspicious prosecutors in the case of K. V., in accordance with the Law on Disciplinary Liability of Judges and Prosecutors. After reviewing the case, the Prosecutorial Council imposed on one prosecutor the disciplinary measure *temporary reduction of salary to thirty percent (30%) for a period of six (6) months*, while finding that the other prosecutor did not commit the alleged disciplinary violation. Regarding the police, the OIK has been informed that the Kosovo Police (KP), on an annual basis, drafts a training plan for its employees aiming for all employees to receive adequate training depending on the position they hold. In this case, any investigator who has been appointed to investigate a case where the child is a victim of sexual violence, has been trained in advance in this area with both basic and advanced training. Only during 2019, the KP was focused on holding trainings in cooperation with the Council of Europe regarding the ECHR, especially the positive obligations of the state towards the protection of these rights, including the right to life as well as other training related to the sexual exploitation of children. Also, KP has emphasized that the training Division constantly organizes activities by local and international organizations in this field. Although in their response the KP has stated that notifying the Office for the Protection and Assistance to Victims in cases where the child is a victim of sexual violence is a practice that is consistently applied, the OIK reminds once again that this did not happen in the case of K. V. and in fact this shows that this practice is not always adhered to. However, the KP has emphasized that the recommendations of OIK will be taken into account and will encourage the KP to ask more about capacity building of police officers in various forms. On 31.8.2020, the OIK received a clarification regarding Recommendation

⁹⁸See: Joint Statement of the Ombudsperson, UNICEF and KOMF (Coalition of NGOs for the Child Protection) - Call for Action "Let's give juveniles a chance", 2020, at: <https://www.oik-rks.org/2020/05/22/deklarate-e-perbashket-e-avokatit-te-popullit-unicef-dhe-komf/>.

⁹⁹OIK, Report with recommendations Ex-officio 567/2019 related to the positive state obligations guaranteed by the Constitution of the Republic of Kosovo and Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms in the case of K.V., 2019, at: <https://www.oik-rks.org/2019/12/09/raporti-me-rekomandime-ex-officio-567-2019-ne-lidhje-me-detyrimet-pozitive-te-shtetit-te-garantuara-me-ushtetuten-e-republikes-se-kosoves-si-dhe-me-nenin-2-te-konventes-evropjane-per-mbrojtjen-e-te-d/>.

EX-officio No. 567/2019 by the Ministry of Labour and Social Welfare (MLSW), which does not address the specific recommendations of the report, but only discusses them in general. Therefore, on 20 November 2020, a repetitive letter was sent to MLSW recalling Article 132, paragraph 3, of the Constitution of the Republic of Kosovo and Articles 18 and 25 of Law No. 05/L-019 on Ombudsperson, but so far no response has been received.

Prevention of child marriage

The Ombudsperson published the Report with recommendations ex-officio regarding the prevention of child marriages, in order to amend and supplement Article 16, paragraphs 2 and 3, of the Family Law.¹⁰⁰ Article 16 of the Family Law stipulates that the marriage of a minor over 16 years of age may be allowed by the competent court if it is established that the minor has reached the necessary physical and mental maturity to exercise his/her marital rights and obligations.

Numerous studies show that early marriages have a negative impact on the development and well-being of children. Early marriage affects the decision-making power of girls within the family and makes them more susceptible to violence and sexual abuse¹⁰¹. In Kosovo, this phenomenon disproportionately affects Roma, Egyptian and Ashkali girls and communities, as more children from these communities marry earlier, and early marriages are more prevalent among girls. According to the Survey of the Kosovo Agency of Statistics in 2013-2014, 10.0% of girls and 1.0% of boys aged 20-49, were married for the first time or entered into cohabitation before the age of 18. While 12% of girls from Ashkali, Egyptian and Roma communities are married before the age of 15 and 43% before the age of 18. Also, Kosovo Gender Analysis reports that in 2014, 95 girls under the age of 18 were married, followed by 109 in 2015 and 63 in 2016, while no cases of marriage were reported among minor boys.¹⁰²

The Convention on the Rights of the Child (CRC) does not explicitly prohibit child marriage, however, the Committee on the Rights of the Child, as the interpreting authority of the Convention, has stated that the minimum age for marriage should be 18 years, for both boys and girls. The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, in their joint recommendation, designate early child marriage as a harmful practice and recommend states to establish effective prevention policies and mechanisms¹⁰³. Among other things, the recommendation states that child marriage is very often associated with early pregnancy and early childbirth, contributes to increasing the

¹⁰⁰Ombudsperson Institution, Recommendation report, Ex officio, Case No. 206 /2019 – with regard to prevention of child marriages, 2020, at: <https://www.oik-rks.org/2020/08/13/raport-me-rekomandime-ex-officio-rasti-nr-2062019-ne-lidhje-me-parandalimin-e-martesave-te-femijeve/> .

¹⁰¹Ibid, pg 20.

¹⁰² Kosovo Women's Network, Kosovo Gender Analysis, 2018, at: <https://womensnetwork.org/wp-content/uploads/2018/10/womens-network.pdf>.

¹⁰³Joint Recommendation No. 31 of the CEDAW Committee/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices, 14 November 2014.

dropout rate, especially among girls, forcible school-leaving and the increased risk of domestic violence, in addition to limiting the enjoyment of the right to freedom of movement. The Assembly of the Council of Europe has further asked the parliaments of the member states to regulate or increase the minimum age for marriage for women and men, up to 18 years.

The right to legal identity

Every child has the right to an identity. Article 8 of the CRC, which deals with the name, nationality and family relationship of a child or young person, states that the government must not interfere with the right of a child or young person to any of these. It also says the government should be able to help if this right is violated for children. The Law on Child Protection has also provided that the child has the right to preserve the identity, including the determination of the surname, the acquisition of citizenship and recognition of family relations in accordance with the applicable law without unlawful interference¹⁰⁴.

Regarding this right, the OIK published a Report with recommendations ex-officio, Case No. 148/2020 regarding the legal identity of unregistered persons¹⁰⁵, calling on state institutions to address and take measures within the competencies and legal responsibilities related to the legal identity of unregistered persons. The Ombudsperson, based on information received in the field and complaints received from citizens, has identified 84 individuals without a legal identity, who cannot have access to basic human rights. Until the publication of this report, 61 individuals of different ages were awaiting solutions at the administrative level, and 23 individuals at the judicial level. Registration of birth, acquisition of citizenship and obtaining personal documents from the civil status (civil registration) is a fundamental right, which is regulated by many international human rights instruments, and at the same time, this issue is regulated by domestic legal acts and sub-legal acts. Registration in the civil registry and the provision of personal documents is of particular importance to these individuals, as it would then serve as a bridge for access to and enjoyment of other rights and benefits provided by national legal acts for citizens, such as: civil-political rights, socio-economic rights, cultural rights, etc. So, same as for the persons who have personal documents, through which the citizenship of the state is proved. The ECtHR, in the case of *Kurić and Others v. Slovenia*¹⁰⁶, found a violation of the right to respect for “private or family life” or both (Article 8 of the Convention), the right to an effective remedy (Article 13) and the prohibition of discrimination (Article 14, read in conjunction with Article 8) in connection with the deletion from the register of permanent residents by the Slovenian authorities, which resulted in the loss of the legal status of the applicants. The ECtHR found that the violation had essentially

¹⁰⁴LCP, Article 33.

¹⁰⁵OIK, Report with recommendations, Ex-officio, Case No. 148/2020 with regard to legal identity of unregistered persons, 2020.

¹⁰⁶*Kuric and others v. Slovenia*, Claim No. 26828/06, Council of Europe: European Court of Human Rights, 26 June 2012, at:<https://www.refworld.org/cases,ECHR,4fe9c88c2.html> .

begun with the prolonged failure of the Slovenian authorities to regulate the applicants' residence status after their illegal "deletion" from the register of permanent residents and to offer them an appropriate solution. The Court also states that the applicants can claim to be "victims", according to Article 34 of the Convention, of the alleged violations of their rights under the Convention. The OIK, after reviewing the relevant legislation, international instruments, case documentation, information and data it possesses, ascertained that in the present case, the non-provision of legal identity for the persons in question contains violations of fundamental human rights and freedoms, namely the rights of children, as the relevant authorities have not fulfilled the constitutional and legal obligations nor the international standards applicable in the Republic of Kosovo regarding the provision of legal identity to its citizens. The OIK has recommended the Municipalities of Prishtina, Gracanica, Fushe Kosova, Lipjan, South Mitrovica, Vushtrri, North Mitrovica, Peja, Ferizaj, Gjakova, Klina and Istog to take the necessary administrative and legal measures to enable these individuals to register the fact of birth and citizenship.

In this regard, the OIK addressed a Legal Opinion in the capacity of Court's Friend (*Amicus Curiae*) to: the Court of Appeals, the Basic Court in Prishtina, the Basic Court in Peja and the Basic Court in Mitrovica.¹⁰⁷

Danger from stray dogs

During 2019 and 2020, the OIK had received several complaints from citizens and parents, concerned about the health and lives of their children from the danger posed by stray dogs. Also, in joint meetings, the Ombudsperson was informed by the children themselves that they feel constantly endangered and worried about their lives by the presence of dogs.¹⁰⁸

The growing number of stray dogs poses a significant problem for public health and for the well-being of humans and animals. The danger from stray dogs, which threatens children, is a real and serious danger, which must be handled with care by all institutions. The problem of stray dogs was also considered by the European Court of Human Rights, in the judgment *Georgel and Georgeta Stoicescu v. Romania*. In the present case, the Claimant complained of being attacked by a mob of stray dogs and that the state authorities had failed to properly implement measures against numerous stray dogs, which posed a threat to the safety of residents. The Court found that the lack of sufficient measures taken by the authorities in

¹⁰⁷OIK, Legal Opinion of the OIK in the capacity of Court's Friend (*Amicus Curiae*) addressed to the Court of Appeals, the Basic Court in Prishtina, the Basic Court in Peja and the Basic Court in Mitrovica, 2020, at: <https://www.oik-rks.org/2020/08/11/mendim-juridik-ne-cilesine-e-mikut-te-gjykates-amicus-curiae-ex-officio-anr-1482020-drejtuar-gjykates-se-apelit-gjykates-themelore-ne-prishtine/> .

¹⁰⁸On 21 June 2019, the Ombudsperson received 20 children from the Roma, Ashkali and Egyptian communities in the municipality of Podujeva. At this meeting, the children were given the opportunity to be heard by the Ombudsperson. On 27 September 2019, the Ombudsperson visited the Primary School "Shtjefën Gjeçovi" in Janjeva, where he was received by the principal and teachers of the school. In this meeting, they informed the Ombudsperson about the work and activities of the Primary School "Shtjefën Gjeçovi", where students from all three communities (Albanian, Croatian and Roma) were taught simultaneously.

addressing this issue, together with their failure to provide adequate compensation for lasting damages, constitutes a violation of the positive obligations of the State provided for in Article 8 - “The right to respect for one's private and family life” of the European Convention on Human Rights.¹⁰⁹

Consequently, to address this problem, the Ombudsperson, in November published a report with recommendations, which, after analysing the situation, international practices and local and international human rights legislation, found that in the present case, *there were violations of fundamental human rights and freedoms*, namely the children’s rights, as the relevant authorities have not fulfilled the constitutional and legal obligations nor the international standards applicable in the Republic of Kosovo, regarding the undertaking of all protective measures.¹¹⁰

The measures taken by the institutions until the publication of the report are not sufficient to effectively manage the proliferation of stray dogs and keep it under control, preventing risks to human health and well-being. The OIK has noted that despite the efforts of some municipalities to treat stray dogs, the situation has not changed much, in the absence of a national plan and inter-municipal and inter-institutional coordination. The final management program should be tailored to the needs and characteristics of the local group of dogs, avoiding a single intervention for all situations and any method used should be based on ethical and legal views, avoiding the suffering of dogs. The report provides concrete recommendations regarding the actions that institutions should take to address this risk to citizens and children and protect them from possible violations of their rights.

¹⁰⁹*Georgel and Georgeta Stoicescu v. Romania*, Application No. 9718/03, ECtHR, 26 July 2011, para. 62.

¹¹⁰OIK, Report with Recommendations Ex-Officio, Case No. 517-2019 regarding the danger posed to citizens by stray dogs, 2020, at: <https://www.oik-rks.org/2020/11/02/raport-me-rekomandime-ex-officio-rasti-nr-517-2019-ne-lidhje-me-rrezikun-qe-i-kanoset-qytetareve-te-republikes-se-kosoves/>.

V. Equality before the law

IV. Equality before the law

The Ombudsperson Institution as a mechanism for protection from discrimination

The Ombudsperson is an equality mechanism for the promotion, monitoring and support of equal treatment, without discrimination on the grounds protected by the Law on Gender Equality, the Law on Protection from Discrimination and the Law on Ombudsperson, where these laws constitute the legal package for human rights and is in force since July 2015.

145 individual complaints were handled in the OIK, from 1 January 2020 to 31 December 2020, where the complainants claim to be victims of discrimination. Out of these complaints for investigation in the allegations of the complainants for discrimination, 107 cases were opened, while 38 complaints were found inadmissible.

Also, the Ombudsperson has the authority to investigate or act on his own initiative *ex-officio* when there are grounds to suspect that discrimination has occurred by public sector entities. Therefore, on this basis, during the reporting year, he has opened 10 cases for investigation.

Following the investigation of cases opened only in 2020, where the complainants claim to be victims of discrimination, 26 cases have been closed, while there are a total of 108 cases under investigation, which were closed after investigations during the reporting year.

During this period, the Ombudsperson addressed the courts in two cases with legal opinions, sent them three reports with recommendations and two letters of recommendation.

Implementation of the Law on Protection from Discrimination

The implementation of the Law on Protection from Discrimination, in 2020, has been challenged due to the global pandemic, the COVID-19 virus, which has deepened the difficulties in relation to the guarantee of human rights in Kosovo, paving the way for new challenges for institutions in terms of meeting legal obligations, but also in terms of mitigating social inequalities.

It is worth mentioning that, despite the difficulties presented during the COVID-19 pandemic, the Government of the Republic of Kosovo has paid increased attention to the positive obligations of the state in relation to the realization of human rights. During the reporting year, the Ombudsperson has monitored all institutions at the central level, regarding the implementation of the recommendations of Ombudsperson. In this context, the Ombudsperson has noted the readiness of the government to respect the legal deadlines for providing responses to the OIK, improving the implementation of recommendations.

Regarding the judiciary, cases of discrimination in court proceedings continue to be few. As stated in the previous annual report, a system for proper monitoring of discrimination cases continues to be lacking. Adequate identification and categorization of discrimination cases has not yet been done.

The Ombudsperson considers it necessary for the regular courts to take into account the case-law of the European Court of Human Rights¹¹¹, when deciding on cases of discrimination, in order to establish a sustainable anti-discrimination practice, based on the primary principles of international human rights instruments, which are an integral part of Kosovo's legal system. The Ombudsperson continues to be committed to developing relationships that contribute to the promotion of equality by further strengthening cooperation with civil society organizations, both regional and international, which operate in the field of protection and promotion of non-discrimination.

Discrimination at work

The Constitution of the Republic of Kosovo guarantees equal legal protection and non-discrimination, the right to work and the free choice of profession and the freedom of association, including the freedom to form trade unions.¹¹² Kosovo has a basic legal framework, which regulates labour relations issues¹¹³, but during the implementation of existing labour legislation, some shortcomings have been identified.

Given that Kosovo is a country with clear aspirations to join the European Union, the government has already begun the reform process, in order to eliminate all the identified shortcomings in the field of labour legislation and through the legislative process to be harmonized with the relevant EU legislation, in order to accelerate the legal approximation process.

This continues to mean increasing the capacity of oversight institutions, strengthening the judiciary and taking other relevant measures, which will contribute efficiently and effectively to the implementation of legislation.

Regarding the work-related legislative reform, the Ombudsperson appreciates the fact that there have been no delays and, during this period, the Government Legal Office prepared four draft laws: Draft Law on Labour Inspectorate, Draft Law on Labour, Draft Law on Maternity and Parental Leave and Draft Law on Pension Schemes Financed by the State, which have been sent to the government for consideration and approval. Also, in the field of occupational safety and health, several sub-legal acts have been drafted, respectively drafts of relevant

¹¹¹See Article 53 of the Constitution of the Republic of Kosovo.

¹¹²Constitution of the Republic of Kosovo, note 2, Articles 24, 44, 49.

¹¹³Law on Labour (1 December 2010); Law No. 04/L-161 on Safety and Health at Work (14 June 2013); Law No. 04/L-219 on Foreigners (5 September 2013); Law No. 05/L-023 on the Protection of Breastfeeding (23 November 2015); Law No. 04/L-011 for Organizing Trade Unions in Kosovo (26 August 2011); Law No. 03/L-200 on Strikes (24 August 2010); Law No. 04/L-008 on Social Economic Council (10 August 2011); Law No. 06/L-084 on Child Protection (17 July 2019); Law No. 2002/9 on Labour Inspectorate (19 December 2002), as amended - Law No. 03/L-017 (10 September 2008).

regulations.¹¹⁴The Ombudsperson underlines the necessity for the approval and entry into force of these legal acts as soon as possible.

Protecting workers' rights during the global COVID-19 pandemic

The Ombudsperson, during the reporting period, monitored the implementation of labour rights, received information from relevant institutions and collected information from the field.

The declaration of a global pandemic due to COVID-19 strongly hit our country and affected the proper functioning of many social sectors, especially the economic one.

State authorities, due to the positive obligation regarding the provision of the right to health in the country, in order to prevent the spread of the virus, drafted and established rules of conduct and introduced protective measures during the pandemic. To this end, the government approved the proposals of the Ministry of Health, together with the Manual for protection against the spread of the COVID-19, which specifies the way of organizing work in all private enterprises, public enterprises, public institutions and during any other activity.¹¹⁵

During the COVID-19 pandemic, the right to work, and especially the rights deriving from the employment relationship¹¹⁶, are closely related to the right to health.

Consequently, the Ombudsperson notes that key staff in some professions have worked harder than ever and have been more exposed than others to the risk of infection at work. Employees in certain occupations have suffered a disproportionate burden in trying to stop the spread of the virus, to protect human health and life and to ensure the fulfilment of basic living needs.

Employees in health facilities, namely medical staff and non-medical staff in workplaces exposed to infected patients¹¹⁷, including Kosovo Police officers, Correctional Service guards, firefighters of the Emergency Management Agency, KSF soldiers, workers who worked in quarantine - Student Centre in Prishtina, Labour Inspectorate inspectors, Kosovo Tax Administration inspectors, Kosovo Customs officers, Market Inspection inspectors and relevant municipal inspections, such as: employees of the Inspectorate of Occupational Medicine, social workers, police officers, workers in grocery stores, in food production and

¹¹⁴Draft regulation on amendments to Regulation No. 04/2014 on minimum safety health requirements for the workplace; Draft regulation on amendments to Regulation No. 05/ on minimum safety and health requirements for the use of work equipment by workers at workplace; Draft-regulation on certification and licensing persons that carry out health and safety activities at work duties; Draft regulation on risk assessment.

¹¹⁵Quarterly Report of the Government of the Republic of Kosovo, 3 June - 10 September 2020, page 12.

¹¹⁶The right to dignified working conditions, the right to freely choose or accept work, the right to adequate compensation, the right to a limited working day and paid leave, the right to equal pay for work of equal value, the right to equal treatment and the right to safe and hygienic working conditions.

¹¹⁷Includes doctors and nurses, but also respiratory therapists and all other health professionals who need to enter the room where infected patients are staying, as well as the basic non-medical staff, who daily maintains the hygiene of the rooms where the infected patients stay, the room maintenance workers for the preparation of food, patient care assistants, patient care technicians and administration; all those who come regularly to work in institutions with infected patients to perform vital services.

processing, food suppliers, drivers in public transport, taxi and truck drivers, despite the specified protection measures, were at greater risk of infection because the protection described was not always accessible, adequate, nor could it provide them with guarantees of complete protection against infection.

However, there is no doubt that some workers in the health sector of Kosovo, due to their direct involvement in the fight against the pandemic, were exposed to high risk for their health. The work of health institutions and staff employed, who worked almost uninterruptedly during this period, became even more difficult due to the large number of workers who became infected with COVID-19.

With its urgent package of measures, the government has also provided certain salary supplements for employees in public institutions, who are directly exposed to the risk of infection at work.

When we talk about private business, it was almost paralyzed due to the decisions of the Government of the Republic of Kosovo in order to protect the population from the spread of the virus, which affected the income of many private businesses, because this sector is almost completely dependent on the internal market. Considering that the private sector leads in the number of employed population,¹¹⁸ the difficulties caused by the pandemic have most often hit employees in this sector.

The government has decided¹¹⁹ to restrict the activities of some businesses, such as: cafes, bars, restaurants, shopping malls, open markets for animals and vehicles, in order to avoid the spread of the virus among citizens, which has caused a lack of their income.

Those businesses that operated during the pandemic were also affected by other government decisions, which restricted the freedom of movement of citizens for certain hours and this restrictive measure also affected the work of these businesses.¹²⁰

Due to the deteriorating situation, the reaction of civil society and the Kosovo Chamber of Commerce, the government approved the Emergency Fiscal Package¹²¹ to overcome the crisis, which, in addition to the public sector, also included the private sector. With this package, the government included three categories of workers affected or injured due to business closure or lack of income for those businesses.

¹¹⁸Kosovo Agency of Statistics, Foreign Trade Statistics, February 2020. 23.3.2020, accessible at: <https://ask.rks-gov.net/sq/agjencia-e-statistikave-te-kosoves/add-news/statistikat-e-tregtise-sejashtme-stj-shkurt-2020>, reviewed by OIK on 22.4.2020.

¹¹⁹Decision number 01/09, dated 13.3.2020. <https://kryeministri-ks.net/wp-content/uploads/2020/03/Scan-14Mar-2020.pdf>.

¹²⁰Decision 01/15, dated 23 March 2020.

¹²¹Decision number 01/19, dated 30.3.2020: <https://kryeministri-ks.net/wp-content/uploads/2020/03/Vendimii-Queveris%C3%AB-nga-Mbledhja-e-19.pdf>

The Ombudsperson emphasizes that at the time of the pandemic, all the institutional mechanisms for the protection of workers' rights, although with reduced staff, have worked regularly and were available to employees to file complaints of labour rights violations relating to the review of the legality of employers' decisions.

In order to strengthen the capacity of public health institutions during the pandemic, a number of health experts have been hired. The lack of health workers is a serious challenge when it comes to the adequate treatment of patients, not only those with COVID-19, but also those with other diseases. In this regard, the government has announced the employment of an even larger number of health workers.¹²²

The Ombudsperson welcomes the approval of the Law No. 07-L-016 on Economic Recovery, by the Assembly of the Republic of Kosovo, assessing that it is important for the economy and its recovery from the consequences of the pandemic.

The Ombudsperson reviewed the complaint,¹²³ filed by some employees against the Civil Aviation Authority of Kosovo (CAA), due to violations related to the principle of equal opportunities, merit, transparency, professionalism and political impartiality, regarding the degradation of the complainants in the workplace, in office and in salary. In this case, the Ombudsperson found a violation, stating that according to the judgments of the ECtHR: *"The right not to be discriminated against is violated when states treat people unequally [...] without providing objective and reasonable justifications. For such reasoning to be "objective and reasonable" two steps must be taken: First, there must be a "legitimate aim" for the inequality in question and secondly, there must be a "reasonable relationship of proportionality between the means employed and the aim sought to be realised."*

The Ombudsperson, acting on the complaints of the complainants¹²⁴ against the Tax Administration of Kosovo (TAK), filed an Opinion with the Basic Court in Prishtina, in the capacity of a friend of the court (*amicus curiae*),¹²⁵ and argued the legal basis in this case. The nature of the complaint relates to discrimination due to political affiliation and political opinion when changing the job position.

Based on the evidence presented and the facts gathered about the case, as well as the relevant laws, the Ombudsperson provided a legal analysis of these cases and presented the reasoned opinion that in the existing circumstances of the cases, the reassignment by the TAK of the complainants' jobs is a discriminatory act and is contrary to Article 28 of Law No. 03/L-149 on the Civil Service in the Republic of Kosovo, because TAK failed to provide convincing

¹²²Quarterly Report of the Government of the Republic of Kosovo, June 3 - September 10, 2020, page 14.

¹²³ A.No.993/2019.

¹²⁴ A.No.520/2019 and A.No.530/2019.

¹²⁵ <https://www.oik-rks.org/2020/09/24/mendim-juridik-i-avokatit-te-popullit-te-republikes-se-kosoves-ne-cilesine-e-mikut-te-gjykates-amicus-curiae-drejtuar-gjykates-themelore-ne-prishtine-a-nr-5292019-hamdi-hoxha-dhe-a-nr-5302019-flu/>

evidence that in the case of the reorganization of TAK, in accordance with the Internal Regulation, adopted on 17 May 2019, the complainants were treated without discrimination and in accordance with applicable law. Especially when TAK announced a vacancy for three positions of Deputy General Director and then appointed several directors as acting directors, by not systematizing the current directors, whom it has considered as a surplus of employees, including the complainants. Consequently, such a practice of TAK, in this case, constitutes discrimination, as the complainants have been treated differently by TAK, due to the fact that they were not placed in equivalent job positions, which were vacant and for which TAK has announced a vacancy. Also, these actions of TAK are contrary to the principle of legality and the principle of legal certainty.

It was also concluded that the Internal Regulation of TAK, dated 17 May 2019, is not in accordance with Law No. 06/L-113 on Organization and Functioning of State Administration and Independent Agencies.¹²⁶

The Ombudsperson, after reviewing the complaint¹²⁷ against the Privatization Agency of Kosovo (PAK), also found that there is discrimination based on gender when it comes to employment in existing management positions of civil servants in the PAK. This issue has been discussed in more detail in the part of this report relating gender equality.

The position of pensioners at the time of the pandemic

The Government of the Republic of Kosovo, among others, through the Emergency Fiscal Package, has supported pensioners and beneficiaries of all social schemes. During this period, there were no delays or difficulties in paying pensions and all benefits have been conducted, based on government decisions to fight COVID-19.

In order to avoid gatherings in front of the counters with the aim of protecting the health of pensioners, the relevant ministry decided not to force them to appear to the pension administration during the pandemic situation. Also, if the pensioners who acquire the right to a pension for the first time do not have the opportunity to physically appear at the pension offices, will have the right to receive the pension from the day of retirement.¹²⁸

Although the government has already taken some steps in reforming the pension and benefits system, it plans to draft a single law on pensions, which will cover and address all pension rights in one document, as well as the creation of a Social Insurance Fund, which law will determine the organizational structure, form of management, level of contributions and

¹²⁶Law No. 06/L-113 on Organization and Functioning of State Administration and Independent Agencies, Article 28, paragraph 3, provides for: “[...] 3. *Internal organization of ministries and executive agencies shall be approved, with a sub-legal act by the Prime Minister, upon proposal of the responsible minister and prior approval of the minister responsible for public administration and opinion of the minister responsible for finance.*”

¹²⁷ A.No.550/2018.

¹²⁸<https://mpms.rks-gov.net/sr/njoftim-i-mpms-per-te-gjithe-pensionistet-e-kosoves/>, accessed on 01.12.2020.

disability pension, all in order to harmonize with European practice, but it remains unclear when this reform will be fully implemented.

The Ombudsperson during the reporting period, on May 26, 2020, published a report on the complaint¹²⁹ filed by a large number of complainants, for the lack of effective investigations and for the violation of the dignity of a relatively large number of police officers under investigation.

With this report, the Ombudsperson assessed that the complainants were subject to a thorough ineffective investigation, follow up with articles in the media without the basis of adequate treatment/analysis to ensure freedom of expression, respectively the freedom of the media not to be abused in terms of violation of human dignity, privacy, the spread of hate speech, intolerance and other harmful consequences.

Also, the publication of personal data through the media and especially the disclosure of the identity of suspects, without extra care undermines the dignity of the parties in criminal proceedings and violates the principle of presumption of innocence of defendants.

The report finds violations of the rights of these persons under investigation and recommends to the State Prosecutor's Office of the Republic of Kosovo and the Police Inspectorate of Kosovo, in accordance with the competencies and legal authorizations, to conclude as soon as possible the investigations regarding the case of the police officers that this report addressed, in order for this issue to receive an epilogue.

The Ombudsperson, during the reporting period, noted that pension applications forms of all pension schemes in Kosovo are available only in Albanian. Furthermore, it was informed that the pension decisions for pensioners from the Serbian community are submitted only in Albanian. Given that all citizens have equal rights regarding the use of official languages in all institutions of the Republic of Kosovo, concerning the shortcomings, the Ombudsperson informed the Commissioner for Languages, as a mechanism for monitoring the exercise of language rights in Kosovo and for the implementation of the Law on the Use Languages.

Persons with disabilities

The legal framework of the Republic of Kosovo clearly prohibits discrimination on the basis of disability.¹³⁰ In addition to specific laws,¹³¹ which regulate the issues of persons with

¹²⁹ A.no.717/2019

¹³⁰See Article 24 of the Constitution and Article 1 of the Law on Protection from Discrimination. Law No. 03/L-019 on Training, Vocational Rehabilitation and Employment of Persons with Disabilities, explicitly prohibits discrimination by employers and emphasizes the need for equal opportunities and treatment of persons with disabilities in employment, training and retraining and guarantees their legal protection.

¹³¹Law No. 2003/23 on Persons with Disabilities; Law No. 03/L-022 on Material Support for Families of Children with Permanent Disability; Law No. 03/L-019 on Training, Vocational Rehabilitation and Employment of Persons with Disabilities; Law No.04/L-092 on Blind Persons; Law No. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons.

disabilities, Kosovo still does not have a comprehensive harmonized law, which would address all categories of persons with disabilities, in order to harmonize Kosovo legislation with the international instruments needed to join the European Union. However, despite the fact that the line ministry has started drafting a comprehensive law document in this area, there is no significant progress in this regard.

However, despite the existing legislative framework, persons with disabilities continue to face discrimination and multiple employment difficulties, access to public spaces and institutions, equal access to education, public transport and other services.

The total number of persons with disabilities in Kosovo is not known and is difficult to determine, due to different definitions of disability and inappropriate and outdated terminology.

Health and rehabilitation services, social assistance and assisting devices for people with disabilities remain inadequate. Kosovo continues to lack an adequate system for accommodating and treating pre-detainees with mental health problems, and mental health facilities do not meet basic standards and are largely overcrowded. Health services for children with disabilities are also not of acceptable quality, and the health system continues to struggle to provide them with basic medicines and medical equipment.¹³²

Obstacles to exercising the right to information, in the sense of obtaining information through Braille for the visually impaired and the blind people, as well as the lack of sign language interpreters for the hearing impaired during the broadcast of the television news program, deprives them of access to important daily information and to some extent affects their full social inclusion, as equal members of society. People with special needs continue to suffer from the stigma of society.

Among other vulnerable groups, people with disabilities also face tremendous challenges due to the COVID-19 pandemic.

Regarding the protection of the rights of persons with disabilities, during the pandemic period, the government in the Emergency Fiscal Package¹³³ has provided regular monthly benefits. For those receiving less than € 100 per month, there was an additional payment of €30 for the following months: April, May and June, provided they were the beneficiaries of only one scheme. However, the Ombudsperson has noticed that the competent authorities have neglected their other needs, which has revealed inequalities in relation to this specific group, such as: the impact on their health protection and access to education.

Given the economic situation in the country, most people with disabilities live in dire conditions and depend on social assistance, which further increases their vulnerability during

¹³²This is reported in more detail in specific sections of this report on the rights of the child and the National Mechanism for Protection from Torture..

¹³³Decision No. 31/2020, dated 3.4.2020.

this pandemic period. Even in normal times, they face significant barriers to accessing health care and social protection services, which are not yet of adequate quality or adapted to their specific needs, so measures of social distance and self-isolation pose an additional challenge, in addition to regular challenges, because a significant number of people with disabilities are either not independent, or in various ways depend on the support of others. Meanwhile, the negative impact of the pandemic on this vulnerable population can be expected to increase even more.

During the reporting period, the Ombudsperson, on August 5, 2020, published the report with recommendations,¹³⁴ according to the complaint against the Ministry of Infrastructure, regarding the lack of equal access to interurban transport for the blind, in accordance with Law No.04/L-092 on the Blind Persons in Kosovo. The report aims to draw the attention of MI to the need to provide equal access to interurban transport for the blind persons in Kosovo, in accordance with Law No.04/L-092 on Blind Persons, respectively with Article 13, paragraph 2.

The Ombudsperson, based on the evidence presented and the facts collected about the case, as well as based on the legislation in force, finds that the complaint is reasonable and that there are violations of human rights and freedoms and in this case there has been a violation of Article 24, paragraph 1, of the Constitution of the Republic of Kosovo and stressed that everyone must respect the human rights and fundamental freedoms of others, as defined by Article 21, par. 3, of the Constitution of the Republic of Kosovo.

Also, the Ombudsperson finds that blind persons in this case are placed in a discriminatory position on the basis of "disability" in relation to other passengers in interurban transport (bus), depriving them of their right to enjoy the benefits deriving from Law No. 04/L-092 on Blind Persons, Article 4, paragraph 1.¹³⁵

Through this report, the Ombudsperson recommends to the MI to amend the Administrative Instruction No. 07/2015 for the Licensing of Operators for Road Transport of Passengers by Bus, in order to determine that interurban transport services for persons with disabilities must be performed at 50% of the ticket price, in accordance with Law No. 04/L-092 on Blind Persons; in the licensing criteria of road passenger transport operators by bus to determine the reservation of two (2) seats for persons with disabilities, together with other accompanying signalling devices; that the MI determines the minimum number of times per month that all road transport operators should be inspected by the MI Inspection Department. The

¹³⁴ A.no.899/2018, accessible at <https://www.oik-rks.org>, part "Reports".

¹³⁵ Law no.04/L-092 for Blind Persons, Article 4, par. 1: "Blind persons are protected from all kinds of exploitation, discrimination, abuse, insult, ridicule and enjoy the rights and freedoms equally with others based on international standards for human rights.") and represents a violation of Law No. 05/L-021 on Protection from Discrimination in Kosovo (Article 3, paragraph 1, which defines the concept of discrimination: "The principle of equal treatment shall mean that there shall be no discrimination, direct or indirect in the sense of any of the grounds set out in Article 1 of this Law")."

Ombudsperson has also recommended that until the amendment of the Administrative Instruction No. 07/2015 for the Licencing of Operators for Road Transport of Passengers by Bus, the Inspection Department to make more frequent inspection controls of road transport operators of passengers in urban and interurban buses, in order to fully implement the legal obligations, set out in Law No. 04/L-092 on Blind Persons and other sub-legal acts.

Also, during the reporting period, the Ombudsperson reviewed a complaint regarding discrimination on the grounds of disability, filed against the Municipality of Prishtina, due to the failure of the municipal authorities to build and regulate the entrance for persons with disabilities in the building of the common facility No. 14/2, in Dardania, Prishtina, which does not have suitable access for people of this category. Although the person with special needs, who lives in this building, addressed the Municipality of Prishtina several times with requests for adaptation of unobstructed access to the building, in accordance with the needs of persons with special needs, the Municipality did not take any action.

After addressing this issue by the Ombudsperson, the Municipality of Prishtina announced that the project of building access for persons with disabilities to the facility in question has been implemented and the access has been adapted to the needs of the complainant.

Gender equality

Despite improved legislative and strategic solutions, women in society still face a range of problems in various spheres of private and public life, so achieving equality of women in all spheres of social and political life must remain at the top of the main goals of the state. Gender inequality is manifested through insufficient participation of women in political life, economic inequality, unequal division of responsibilities in the family, differences in property ownership, etc.

The Assembly of the Republic of Kosovo, on the proposal of 65 MPs, in the plenary session of September 25, 2020, approved the Constitutional Amendment no. 26, which makes the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (or as it is also called the Istanbul Convention) an integral part of the Constitution.¹³⁶ The Ombudsperson, having stated in previous reports the need to include this Convention in the Constitution, considers it a positive step and is an indicator of the importance that has been attached to this right by the Assembly. The Convention imposes on states the need to take action in the prevention, protection, prosecution and drafting of integrated policies, which will certainly have a positive impact on the fight against violence against women.

¹³⁶ <https://gzk.rks-gov.net/ActDetail.aspx?ActID=31730>

The Istanbul Convention is the most advanced international treaty to address such serious human rights violations. The Convention aims to ensure zero tolerance for this type of violence and is a major step forward in making Europe more secure.¹³⁷

The purposes of this Convention are as follows: protecting women from all forms of violence, and preventing, prosecuting and eliminating violence against women and domestic violence; contributing to the elimination of all forms of discrimination against women and the promotion of fundamental equality between men and women, including through the empowerment of women; developing a comprehensive policy framework and measures for the protection and assistance of all victims of violence against women and domestic violence; promoting international cooperation, with the aim of eliminating violence against women and domestic violence; providing support and assistance to law enforcement organizations and agencies to cooperate effectively in order to adopt an integrated approach to eliminating violence against women and domestic violence.

Cases of gender discrimination are rarely reported either due to lack of recognition of rights or due to distrust in institutions. The jurisprudence has not yet been developed to the extent of creating a standard which could serve as a reference guide for resolving analogous cases. During this year, the Ombudsperson has received 43 cases related to gender issues.

High unemployment, traditional gender roles and economic factors are key elements that hinder women's position in the labour market. Poverty, unemployment, mindset which have been carried from the past, undoubtedly affect equal inclusion in the labour market.

With the approval of the Administrative Instruction (GRK) No. 02/2019,¹³⁸ as an affirmative action aimed at establishing equal relations between the two spouses and to advancing the woman's right to the issue of property and its registration on behalf of both spouses, seems to have had a positive impact. The Government of the Republic of Kosovo, in its meeting of April 17, 2020, with Decision No. 03/25 approved the amendments to this Administrative Instruction, extending the term of validity of the implementation from the one-year period to the five-years period.¹³⁹

Based on our traditional society, the issue of renunciation of the female heir in favour of the male heir is still practiced, such a situation is present in all communities in Kosovo. In many cases, women give up inheritance for a variety of reasons, including because of a desire to maintain their ties to families of origin.

LGBTI community rights

Despite the fact that there is a legal framework that protects the rights of this community, LGBTI, as part of society in Kosovo, is considered to be a marginalized category. It is evident

¹³⁷ <https://rm.coe.int/168064d3f6>

¹³⁸ <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=19524>

¹³⁹ <https://gzk.rks-gov.net/ActDetail.aspx?ActID=27729>

that homophobic attitudes are still expressed in Kosovo society. Even in the preliminary annual reports, the Ombudsperson has concluded that respect for human rights in general can be taken as an indicator of the democratic development of the country, both at the legislative level and at the practical level. LGBTI persons still live in fear of expressing their sexual orientation, because of the society's approach and homophobia of society representatives towards them and this is why they are discriminated against in everyday life.

Regarding the existing legislation, which regulates the rights of LGBTI persons, it is evident that requires supplementation regarding the further protection of human rights on the basis of sexual orientation and gender identity. Another problem is the fact that the relevant legislation in this area is not adequately implemented. It is a special obligation of the state to protect human rights, mainly through its legal system, providing additional guarantees for the individual to enjoy these rights.

The new civil code, submitted to the government by the Ministry of Justice, has provided for some legal changes regarding the further protection of human rights based on sexual orientation and gender identity.

The "Pride Parade", organized by NGOs that protect the interests of the citizens of these communities, was held in the International Day Against Homophobia. However, the pandemic has changed the form of the march in 2020, and under the slogan "Yes, I want", this year the "Pride Parade" has been organized with the passing of cars through the streets of Prishtina. This parade has brought together LGBTI people and community supporters to demand equal rights for this community.

In the framework of marking the "Pride Week in Kosovo", the Ombudsperson, through a statement, has asked for attention to guarantee fundamental human rights for members of the LGBTI community. In this statement, the Ombudsperson emphasized that this community is still one of the most vulnerable groups in our society. He also reminded that the purpose of promoting the rights of the LGBTI community must be effective and, therefore, it must be supported by the continuous sanctioning of any act committed out of hatred on the basis of sexual orientation.

During the reporting period, the Ombudsperson and his associates have been engaged in promoting the rights of persons from these communities through participation in several meetings, such as the meetings of the Advisory and Coordination Group at National Level in Kosovo on the rights of the LGBTI community, organized by the Office for Good Governance, within the Office of the Prime Minister.

Domestic violence

During the pandemic, an increase in the number of cases of domestic violence was reported.¹⁴⁰ In a statement issued on 20 April 2020 and 25 November 2020, the Ombudsperson stressed that while the health emergency has slowed down the work of the courts, the safety of the victim and her children should remain a primary concern for law enforcement institutions and judicial authorities for immediate action, prevention and protection.

The Ombudsperson has noticed that in the reported cases, the reactions and actions of the competent bodies (police, prosecution and court) continue to be not at the appropriate level. This is documented by the complaints received by the OIK regarding the delays in court proceedings relating cases of domestic violence. But there are also cases where victims of domestic violence are reluctant to report cases for a variety of reasons, including emotional attachments to the perpetrator, or also because society continues to conceive domestic violence as a private matter, which should not be presented outside the family circle.

In Kosovo, there are eight shelters for victims of domestic violence and there are two other shelters, where one of them is dedicated to children who are subjected to domestic violence and other ill-treatment, while the other shelter is for victims from trafficking in human beings. Shelters play an important role in the rehabilitation and reintegration of victims of domestic violence. However, the Ombudsperson is concerned about the lack of institutional support for these shelters, especially the unresolved problem of sustainable funding, because the lack of sustainable funding for shelters is the main challenge of their work in providing services to victims of domestic violence.

Various social, economic and cultural factors have influenced the level of violence in Kosovo to remain unchanged. However, based on the complaints of the complainants submitted to the OIK, one of the main problems that complicates the position of the victims, turns out to be economic dependence. Although there is a solid legal basis for protection from domestic violence, it should be noted that law enforcement is not at the right level. It is worth noting that the procrastination of court proceedings in dealing with cases of domestic violence is quite discouraging for such cases to arise. In most cases, women remain victims not only of violence perpetrated by their husbands, but also of inactions and negligence of the institutions whose mandate is to provide protection and assistance to them.

The Law on Electronic Supervision of Persons whose Movement is Limited by the Decision of the Court continues to be unenforceable this year as well. For the implementation of this law in the implementation of electronic supervision and reporting by the Kosovo Police of persons whose movement is limited, the Ministry of Internal Affairs has issued an administrative instruction. However, this law is not applicable yet.¹⁴¹ The Ombudsperson has

¹⁴⁰ Statement of the Ombudsperson regarding domestic violence, on 30 April 2020 and 25 November 2020.

¹⁴¹ Law No. 05/L-003 Electronic Supervision of Persons whose Movement is Limited by the Decision of the Court.

conducted an investigation *ex officio* regarding the non-implementation of this law, which would directly affect the protection of victims of domestic violence.

During the reporting period, the OIK has also received cases related to domestic violence.¹⁴² At the request of the complainants, the OIK monitored court proceedings for victims of domestic violence.

It is encouraging that the Assembly of the Republic of Kosovo, on 20 September 2020, approved the amendment of the Constitution of the Republic of Kosovo, by which the Istanbul Convention is included in the Constitution. With the inclusion of this Convention, in addition to the implementation of the Ombudsperson's recommendation, the legal framework and the application of international instruments for protection from domestic violence have been completed. This change obliges state authorities to commit in the future to take the necessary measures and other measures to establish an effective, comprehensive and coordinated system for the prevention and protection of domestic violence.

Social and Health Protection

The Ombudsperson, as in the preliminary annual reports, expresses its concern that so far the International Convention on Economic, Social and Cultural Rights is not part of the Constitution of the Republic of Kosovo.¹⁴³

The Ombudsperson estimates that the economic and social situation in Kosovo continues to be concerning. Public institutions should make greater efforts to improve the situation in the social aspect for the groups that are considered marginalized in Kosovo.

The Ombudsperson finds that the social protection system in Kosovo is not at a satisfactory level, as a result of the inadequate functioning of the Centres for Social Work (CSW) in relation to the provision of professional social services to all citizens of the country, regardless.¹⁴⁴

Kosovo continues to have high unemployment rate and a lack of health insurance legislation. During this reporting period, the economic and social situation in Kosovo has worsened as a result of the global pandemic COVID-19.

The Ombudsperson, this year, also emphasizes the need for the Government of the Republic of Kosovo to, urgently, take action regarding the practical implementation of the law on Health Insurance, which was approved in April 2014 by the Assembly of the Republic of Kosovo, which continues not to apply in practice.¹⁴⁵

¹⁴² A.No.692/2020, A.No.674/2020, A.No.641/2020, A.No.385/2020, A.No.105/2020, A.No.36/2020.

¹⁴³ See <https://www.oik-rks.org/2020/04/02/raporti-vjetor-2019/> Annual Report of the Ombudsperson, of 2019, p.74.

¹⁴⁴ Ex-officio case No. 59/2019 regarding the evaluation of the social service delivery system in Kosovo, Prishtina, 17 December 2019.

¹⁴⁵ Law No. 04/L-249 on Health Insurance, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=9450>

On 14 August 2020, the Assembly of the Republic of Kosovo approved the Law No. 07/L-006 on Preventing and Combating COVID-19 Pandemics in the Territory of the Republic of Kosovo.¹⁴⁶ Article 10, paragraph 2, stipulates that every person has the right to benefit from COVID-19 protection measures. In the framework of the protection of the population from the COVID-19 pandemic, the Government of the Republic of Kosovo provides additional material means for emergencies, including covering the costs of isolation, examination and treatment in public health institutions of ill persons and persons suspected of suffering from COVID-19. However, according to the information available to the Ombudsperson, this is not being implemented in practice.

On 21 August 2020, the Ombudsperson opened an *ex-officio* case against the Ministry of Finance and the Ministry of Labour and Social Welfare, regarding Decision No. 31/2020, dated 3 April 2020, according to which has approved the Operational Plan for the Emergency Fiscal Package.¹⁴⁷ Within this plan, assistance measures are foreseen for natural and legal persons, including Measure No. 15, which is related to the payment of monthly assistance in the amount of 130 euros for citizens with severe social conditions, announced in competent institution as unemployed, who are not beneficiaries of any monthly income from the budget of the Republic of Kosovo, for the months: April, May and June, in the amount up to three million euros. To be eligible for this measure, families in need must submit written requests and must meet the criteria set out in this measure. According to the information available to the Ombudsperson, the review of written requests submitted by families in need was done by the centres for social work in the municipalities where the applicant families come from, which were obliged based on a decision of the MLSW.

Social housing

The Ombudsperson continues to receive numerous requests from citizens in need of housing. MLSW together with the municipalities of Kosovo are building houses for non-majority communities, that are beneficiaries of the capital project "Support for non-majority communities". However, based on the information available to the Ombudsperson, the housing requirements are still high.

The Ombudsperson has received several complaints regarding the non-response of municipalities to the complainants' requests, which they have submitted regarding the payment of rent. Citizens who do not have their own property are forced to pay rent and in some cases there are delays in procedures to decide on their claims by the respective municipalities. In some cases, municipalities financially support the requests of citizens in need of paying rent, but this financial support is short in terms of time and citizens in need are forced to constantly apply for this type of support and thus they are not offered a

¹⁴⁶Law No. 07/L-006 on Preventing and Combating COVID-19 Pandemics in the Territory of the Republic of Kosovo: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=30819>

¹⁴⁷Case opened *ex officio* at the OIK, with No. 488/2020.

sustainable and long-term solutions for their housing. Also, in the absence of property, citizens are often forced to change their place of residence and this situation poses a constant risk to the well-being of these families.

By the end of November 2020, the Ombudsperson received a complaint from five families against the Municipality of Prishtina.¹⁴⁸ According to the complainants, the Municipality of Prishtina ordered them to vacate the municipal property and the municipality in question issued decisions through which the rent subsidy will be made until the resolution of the permanent housing issue, but not more than 5 years, but the complainants allege that they sought assistance from the municipality for the provision of permanent housing, but were not supported, arguing that there are no conditions or opportunities. The Ombudsperson is investigating the case.

Social assistance

The Ombudsperson expresses concern regarding the non-implementation of the Ombudsperson's recommendation regarding the non-amendment of the Law on Social Schemes, respectively the criteria for social assistance for families without children under 5 years of age.¹⁴⁹ However, the answer that the Ombudsperson received from the representative of MLSW, on 25 November 2020, with the announcement that the concept document for the change of the social assistance scheme has been approved and the process of legal changes will take place during 2021, is hopeful.

The Government of the Republic of Kosovo, respectively the Ministry of Finance and Transfers, issued the Decision No. 38/2020, through which the beneficiaries of the social assistance scheme will receive double payment of the value of the social scheme for the months: March, April and May of 2020. Such a practice was repeated for the months: October, November and December of 2020, which is being implemented every month together with the regular payment of this social scheme. Such an assistance has made it possible for the beneficiary families to, more easily, overcome the socio-economic situation in this time of pandemic.

Law No. 07/L-016 on Economic Recovery provides that the salaries of employees in the private sector are paid from the Budget of the Republic of Kosovo for the period October-December 2020, who as a result of the pandemic COVID-19, have been dismissed or suspended from work for a period not shorter than three months, after 29 February 2020 until 30 December 2020.

¹⁴⁸Case A. No. 689/2020.

¹⁴⁹*Ex-officio* Casse No. 385/2016 regarding the amendment and supplementation of Article 4 of the Law No. 04/1-096 on amending and supplementing the Law No. 2003/15 on the social assistance scheme in Kosovo, Prishtina, 13 July 2018.

Activities of the Department for Protection against Discrimination

On 7 January 2020, the representative of the Ombudsperson participated in the conference: *“Protecting the rights of the Roma, Ashkali and Egyptian communities”*, organized by the NGO Balkan Sunflower.

On 24 January 2020, the representative of the Ombudsperson participated in the meeting: *“Integration of Roma, Ashkali and Egyptian communities in the education system in Kosovo”*, organized by the Kosovo Education Centre (KEC).

On 3 February 2020, the representative of the Ombudsperson participated in the roundtable: *“Measuring stigma and discrimination towards key populations at risk for HIV and persons living with HIV in Kosovo”*, organized by Integra, CDF and the Office of Ombudsperson, and funded by the Global Fund.

On 5 February 2020, the Ombudsperson's representative participated in a meeting with citizens of the Serb community in Lipjan to discuss complaint procedures with the OIK.

On 6 and 7 February 2020, the representative of the Ombudsperson participated in the training: *“The role and mandate of the OIK in the protection of human rights”*, held in Gracanica, organized by the IPA Project.

On 27-28 February 2020, the representative of the Ombudsperson participated in the training: *“The role and mandate of the OIK in the protection of human rights”*, held in Prizren and organized by the IPA Project.

On 8 March 2020, the representative of the Ombudsperson participated in the celebration of International Women's Day, on which occasion the Amendment of the Legal Framework for Protection from Domestic Violence was published, and the presentation of the final draft of the Kosovo Program for Gender Equality, organized by the Agency for Gender Equality.

On 11 March 2020, the representative of the Ombudsperson participated in the meeting with the director of the Directorate of Capital Investments of the Municipality of Prishtina.

During April 2020, the representative of the Ombudsperson addressed official letters to all basic courts in Kosovo, Kosovo Police, directors of shelter houses in Kosovo, victims' advocates in Kosovo, the Ministry of Health, who were asked for information on cases of domestic violence during the pandemic and for the measures taken by them, according to their competencies. After receiving the answers, based on that information, on 30 April 2020, the Ombudsperson published a Statement in the media regarding domestic violence during the COVID-19 pandemic.

On 3 August 2020, the representative of the Ombudsperson participated in the public discussion, online through the ZOOM platform, on the topic: "Protection of the rights of Roma, Ashkali and Egyptian communities in Kosovo", organized by the NGO “Voice of Roma, Ashkali and Egyptians”.

On 8 and 9 July 2020, the representative of the Ombudsperson participated in the online conference, organized by the Council of Europe, on the occasion of the 70th anniversary of the European Convention on Human Rights.

On 16 July 2020, the representative of the Ombudsperson participated in the Conference on the Draft-Proposal for Amendments to the Law on the Use of Languages, organized by the NGO Aktiv - North Mitrovica.

On 6 October 2020, the representative of the Ombudsperson participated in the meeting of the Advisory and Coordination Group on the rights of the LGBT community, organized by the Office for Good Governance within the Office of the Prime Minister.

On 16 October 2020, the representative of the Ombudsperson participated in the meeting "Sustainable Development Goals (SDG) and Cooperation between OIK and KAS regarding the 2030 Agenda"

12 October 2020, the senior legal advisor participated in the meeting with the representative of the Ministry of Defence.

On 16-17 October 2020, the representative of the Ombudsperson participated in the Seventh Regional Rule of Law Forum for Southeast Europe, organized by the Rule of Law Forum for Southeast Europe.

On 15 October 2020, the representative of the Ombudsperson participated in the celebration of the International White Cane Day, organized by the Municipality of Prishtina.

On 15 October 2020, the representative of the Ombudsperson participated in the roundtable on the topic: "Drug prevention in Roma, Ashkali and Egyptian communities", organized by the NGO Labirinth.

On 20 October 2020, the representative of the Ombudsperson responded to the Jahjaga Foundation questionnaire regarding cases of sexual harassment in the workplace.

On 28 October 2020, the representative of the Ombudsperson participated in the meeting with the President of the Health Union of Kosovo.

On 30 November, 1 and 2 December 2020, the representative of the Ombudsperson participated through the ZOOM platform in the training "European Convention on Human Rights and the case law of the European Court of Human Rights", organized within the IPA Project and the OIK.

On 25 November 2020, in order to mark the "16 Days of Activism" against domestic violence and to mark the International Day for the Elimination of Violence against Women, the Ombudsperson published the Statement regarding the International Day for the Elimination of Violence against Women.

On 26-27 November 2020, the representative of the Ombudsperson participated through the ZOOM platform in the Regional Conference "Access to Justice for Women Victims and Survivors of Violence in the Western Balkans and Turkey at the Time of COVID-19", organized by the UN WOMEN.

On 2 December 2020, the representative of the Ombudsperson participated in the virtual publication of the project: "*Expanding choices: Gender responsive family policies for the private sector in the Western Balkans and Moldova*", organized by the United Nations Population Fund - UNFPA, through the funds of the Austrian Development Agency - ADA. The focus of this conference was on issues related to gender equality, women's participation in the labour market, as well as the promotion of family-friendly policies which could support women in realizing their career, family and fertility aspirations.

On 3 December 2020, the representative of the Ombudsperson participated in the online discussion organized by the Kosova Rehabilitation Centre for Torture Victims (KRCT) in cooperation with the forum ZFD - program in Kosovo, in the framework of "16 Days of Activism", in which case the following discussion was organized: "*Beyond pain, towards courage: Documenting experiences of sexual violence from the recent war in Kosovo*".

On 9 December 2020, the representative of the Ombudsperson participated in the High Level Conference on the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence - Istanbul Convention, entitled: "*Implementation of the Istanbul Convention: what does it mean in practice?*", organized by the Council of Europe and the OSCE Mission in Kosovo.

Meetings with representatives of the institutions of the Republic of Kosovo regarding the investigation of cases submitted to the OIK.

Monitoring of trials in the Basic Court in Prishtina regarding the complaints filed with the OIK (4 monitoring).

On 3 December 2020, the representative of the Ombudsperson met with the representative in the Directorate of Civil Status and the representative of the Directorate of Property and Cadastre in Gracanica, regarding the cases under investigation.

The rights of communities

Based on the international standards regarding minority rights, it should be noted that minority rights do not per se represent any special feature and privilege. However, affirmation, social integration and justice are very important. In countries where ethnic diversity often leads to disputes, politicization of problems, and social divisions, respect for minority rights can exclusively and only contribute to political, social, and peace stability. Kosovo has advanced laws in place, which are aimed at advancing and affirming minority communities. However greater political will is needed for these laws to be implemented towards reaching their goal.

During this year for which it is being reported, the Ombudsperson has carefully followed the respect of the rights of the communities.

For the reporting period, the Ombudsperson received 149 complaints from members of all communities, of which 93 were individual complaints. This year there is a slight decrease in the number of complaints from communities, but that may be related to the restrictions made in the fight against the pandemic caused by the COVID-19 pandemic, due to the fact that the total number of complaints received in the institution has declined.¹⁵⁰

The institutions' efforts to combat the pandemic, and perhaps the urgency of their actions, have been accompanied by omission regarding the provision of information in the Serbian language during the emergency situation, which was in force from mid-March to June 2020. Such a situation has put citizens who do not speak Albanian language in an unequal position for obtaining accurate and relevant information, as well as information related to public health.

Given the situation in Kosovo during the COVID-19 pandemic, there has been progress in some areas on some issues when it comes to some minority rights, which is commendable, but there have also been setbacks or no movement when it comes to certain issues, which have directly affected members of minority communities, especially vulnerable groups within these communities, such as: members of the Roma, Ashkali and Egyptian communities, as well as returnees to Kosovo.

Overall, the most vulnerable and marginalized communities are still Roma, Ashkali and Egyptian communities. The most common problems faced by members of these communities are: difficult economic and social situation, unsatisfactory participation in education, unemployment, real estate, property rights, etc. Being faced with these problems on an ongoing basis, the Roma, Ashkali, and Egyptian communities were particularly affected during 2020 due to the COVID-19 pandemic. Given that a significant proportion of members of these communities work in informal jobs, after the entry into force of the public health emergency, they faced a difficult economic situation, which contributed to the increase of poverty. In response to this situation, a number of NGOs have taken several initiatives to help these communities. The objectives of these initiatives were to provide support to the Roma, Ashkali and Egyptian communities in the provision of food and hygiene packages, including support packages for the development of learning, the provision of e-learning for children - distance learning; support for the media in the language of these communities and informing members of the communities and supporting the work of NGOs dealing with the issue of these marginalized communities. Also, a number of municipalities started their initiative to collect

¹⁵⁰ Number of complaints received, which were made by members of minority communities: 47-Serbs, 17-Bosniaks, 10-Turks, 5-Ashkali, 3-Egyptians, 13-Roma, 3-Gorani and 5 others, which which accounts for 13% of the total number of complaints received during 2020. The total number of complaints received by the OIK during 2020 is 720, whereas 43 cases were opened *ex-officio*.

information technology equipment, which they distributed to the children of these communities, so that they can participate in distance learning.¹⁵¹

The Government of the Republic of Kosovo provided assistance and support to citizens and communities, approving an aid package worth 130 euros for three months for families without income from the state. Although this assistance was not enough to cover all the essential living costs, it certainly had a positive impact on overcoming the economic difficulties in this time period.

Return and security

Even during 2020, the issue of housing for about 346 people living in collective centres in areas inhabited mainly by members of the Serb community has not been resolved. Although progress has been made in this regard, the housing project has not yet been fully completed.¹⁵² It is still seen as necessary to work on building mutual trust between communities, so that future results get better.

Despite the situation with the COVID-19 pandemic, it is encouraging that 361 people have returned to Kosovo, which compared to last year 2019, where only 190¹⁵³ people were registered as returnees, now the number of returnees is almost twice as high.

One of the biggest problems for displaced persons and returnees remain the usurped property and free use of real estate as well as incidents in places where mainly members of the Serb community have returned, which continues in the coming period to remain a challenge for a favourable climate regarding sustainable return.

In fact, although the security situation is quite stable, some recurring incidents continue to affect the perception of security of members of the predominantly Serb and Roma communities, whether living in Kosovo, or of those who are displaced, so this perception affects the favourable climate in the return process of these persons.

During 2020, 62 incidents were recorded¹⁵⁴ in places of return, whereas Kosovo Police opened only 11 cases related to incidents of possible interethnic motive.¹⁵⁵ Regarding these incidents,

¹⁵¹ Information received from the executive director of the NGO "VoRAE".

¹⁵² According to UNHCR statistics, as of the end of November 2020, a total of 408 people live in collective centres in Kosovo: 21 in the north of Mitrovica, 71 in Leposavic, 20 in Zubin Potok, 27 in Zvecan, 247 in Strpce and 22 in Gracanica. It should be noted here that at the beginning of 2021, 87 families moved to the new buildings built in Strpce, which are intended for 87 families who are users of the collective centre in Strpce, whereas 15 other families (62 people) have remained living in collective centres in this country and are also expected to be provided with housing during the first half of 2021, according to the MCR.

¹⁵³ UNHCR - Statistical Overview, November 2020, According to UNHCR statistics, from January to the end of November 2020, 234 Serbs, 63 Ashkali and Egyptians, 3 Bosniaks and 61 Roma returned.

¹⁵⁴ According to the official data of the MCR, during 2020, 15 cases of theft, 18 physical attacks on persons, 4 cases of arson, 7 cases of destruction of religious buildings, 13 cases of destruction of real estate and 1 case of destruction of public facility.

¹⁵⁵ Information received from the Kosovo Police, on 16.12.2020.

it is necessary to look at the fact that it is necessary for the Kosovo Police to start working on building their capacity in terms of increasing the number of members of minority communities in its forces, especially among members of the Serb community in the municipalities of Klina and Istog, in which the highest number of incidents occurred during 2020. In the municipalities in question, according to official data of the Kosovo Police, there are only 8 police officers who belong to minority communities (in Klina only 1 member of the Ashkali community, whereas in Istog the Police employs 5 Bosniaks, 1 Serb and 1 Ashkali).¹⁵⁶

In addition the above, return is also affected by the unfavourable economic situation in the country, i.e. the inability to find employment and the impossibility of a sustainable economic security, which is reflected in the fact that the most frequent return occurs only by the elderly population and hardly by the younger population.

Based on the information received by the OIK from the Ministry of Communities and Returns (MCR), at the end of 2020, work was being completed on the housing of 162 people out of a total of 408 people who have been living in inadequate conditions for twenty years now, in five collective centres in Strpce. In Strpce, the MCR has built five residential buildings with 110 apartments for these persons and the plan is to close all collective centres in Kosovo by 2021 and to finally make a solution for permanent housing for the users of all collective centres.¹⁵⁷ At the beginning of January 2021, 87 families moved into their new homes in Strpce, whereas 15 families are still waiting for housing. The Ombudsperson welcomes the actions taken and future plans for this issue, but also calls for faster reaction and action, because it is unacceptable that after 20 years there are still collective centres where displaced persons continue to live in inhumane and difficult conditions. Reporting on the return and submission of requests for the return of displaced persons, in the report that the MCR has sent to the OIK,¹⁵⁸ it is said that one of the biggest problems in this regard was caused by the COVID-19 pandemic, because the situation is reflected in all aspects of return and all this due to the restricted movement, the closure of border crossings, so returnees have not had the opportunity to visit their property, submit claims and obtain in the municipalities the necessary documentation for submitting requests for return assistance, as well as to obtain personal documents. Reduced institutional capacity has also had an impact at both local and central levels, as well as limited access to utilities, which deal with administrative issues for issuing the documentation needed by returnees.

In 2020, the MCR received a total of 186 requests, of which a total of 108 requests for assistance in returning and finding sustainable solutions were approved. Out of 186 submitted requests, 48 requests were rejected because they did not meet the criteria set out in the

¹⁵⁶ The data were obtained from the Kosovo Police, on 23.12.2020.

¹⁵⁷ Information in the form of reports was obtained from the MCR on 18.12.2020.

¹⁵⁸ Ibid.

Regulation on the Return of Displaced Persons and Sustainable Solutions.¹⁵⁹ Whereas the 30 families are waiting, due to having to obtain the necessary documentation, or until they resolve the issue of property ownership (usurped property, confirmation of property rights that are taking place in the courts, ongoing inheritance proceedings etc.). Also, during 2020, the MCR continued to pay the costs of renting apartments for 51 families, who have returned from Montenegro and North Macedonia to the Republic of Kosovo.¹⁶⁰

Regarding the Inter-Institutional Initiative for Displaced Persons from Kosovo, better known as the "Skopje Initiative",¹⁶¹ The Ombudsperson welcomes the continuation of this initiative and the good result that is being achieved with it in terms of care and finding solutions for displaced persons, who have not yet returned to their homes in the Republic of Kosovo. Although the initiative had difficulties in its work due to the COVID-19 pandemic, a way has been found to organize meetings and coordinate their work in the best way possible through online platforms, which this time is welcomed as a positive example and a move forward in the period of limited work with limited field resources and work organization that requires the presence of a larger number of people and work with citizens. The Ombudsperson also welcomes the completion of the first draft of the feasibility study, which assesses the possibility of establishing a mechanism to prioritize the litigation of displaced persons' property cases, through a special court unit.

Property rights

The right to property, as a fundamental human right, is guaranteed by the Constitution, laws and international human rights instruments, which are legally binding and directly applicable in the Republic of Kosovo and which pay attention to special protection of property rights, as a fundamental human right.¹⁶²

Resolving property claims is a major step towards protecting the rights of minority communities, and effective and sustained respect for this fundamental human right can have

¹⁵⁹ Regulation (GRK) - No. 01/2018 on the return of displaced persons and a lasting solution, which regulates in legal terms the issue of return of displaced persons and their homes in Kosovo.

¹⁶⁰ Information in the form of reports was obtained from the MCR on 18.12.2020.

¹⁶¹ "Skopje Initiative" operates in 5 working groups for implementation, for: 1. property issues; 2. on security, dialogue and reintegration; 3. for personal documents; 4. for data management and 5. for planning and sustainable solutions. This initiative consists of the Republic of Kosovo, the Republic of Serbia, Northern Macedonia, Montenegro, the OSCE Mission in Kosovo and the UNHCR and represents a key regional platform, which enables ongoing dialogue and regional coordination.

¹⁶² Article 17 of the Universal Declaration of Human Rights (UDHR), the first document that defines the fundamental human rights that are protected worldwide, states: "*Everyone has the right to own property alone as well as in association with others.*" and "*No one shall be arbitrarily deprived of his/her property.*" The right to property is also recognized by the International Covenant on the Elimination of All Forms of Racial Discrimination; (ICPRD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Property rights are listed in the First Protocol to the European Convention on Human Rights (ECHR).

a positive effect on creating a path to legal security for those citizens who have not yet may exercise their property rights.¹⁶³

The Ombudsperson has constantly reported on the issue of property usurpation, on the shortcomings of the mechanisms to implement the decisions taken, on the delays in the proceedings in the judicial bodies and, as a result, property rights holders have difficulty managing to make their property available, as provided by the legal framework, creating legal uncertainty for citizens.

There has been progress on this issue in recent years, but there are still a number of fundamental problems in returning property to owners, for which persistence must be exercised with due caution, and it is imperative that this issue be given priority for resolution. In this case, we should refer, as a positive example, to the fact that the Judgment of the Constitutional Court of the Republic of Kosovo, in the case regarding the return of real estate and the demolition of illegally constructed buildings after six years, was finally enforced. The demolition of illegally constructed structures was carried out by the PAK in October 2020. Concerning this, through a report with recommendations, the Ombudsperson had warned about the delays and consequences for the party due to non-execution of the Judgment of the Constitutional Court KI 187/13, dated 16 April 2014.¹⁶⁴

When it comes to the property rights of the Roma, Ashkali and Egyptian communities, no progress has been made in registering some informal settlements, namely a large number of real estates, in which members of these communities live, all because of unclear ownership relations and legally valid documentation, which presents a major problem and a major challenge in resolving this issue. For the abovementioned reasons, some municipalities failed to implement certain housing projects, as the procedures required a clear situation of the property with plots, for which some citizens submitted claims. As an alternative solution, reconstructions of existing facilities were conducted where possible.¹⁶⁵

Education

Although education should be a pillar of the legal framework for the promotion of the rights of minority communities, the Ombudsperson notes that the situation with education in two parallel directions continues. One of them is managed by the Government of the Republic of Kosovo, more precisely by the Ministry of Education and Science (MES), which provides education in Albanian, Turkish and Bosnian language. The other is managed by the Republic

¹⁶³ OSCE Mission in Kosovo, Report "Mass Property Claim Review Mechanism: The Kosovo Experience", June 2020 <https://www.osce.org/sr/mission-in-kosovo/454185> (në gjuhën serbe) and The Mass Property Claim Review Mechanism: The Kosovo Experience <https://www.osce.org/sq/mission-in-kosovo/454182> (në gjuhën shqipe).

¹⁶⁴ Complaint No. 435/2013 N. J. against the Kosovo Property Agency, Ombudsperson, on 6 May 2015, sent to the KPA a Report with recommendations No. 435/2013, in which he recommended them to take the necessary and indispensable measures in order to execute the Decision of the Constitutional Court KI 187/13, dated 16.4. 2014, in order to protect the complainant's right to property without further delay.

¹⁶⁵ Information regarding this issue, the OIK provided to the Municipality of Gracanica in January 2021.

of Serbia, i.e. by its Ministry of Education, Science and Technological Development and provides education in the Serbian language. There are schools providing Serbian language education in six districts in Kosovo: Ferizaj, Gjilan, Mitrovica, Peja, Prishtina and Prizren, whereas education takes place in 69 primary schools and 34 secondary schools. Regarding these problems of the education system in Kosovo, the Ombudsperson has reported in previous reporting periods and since then the situation has slightly improved. The improvement is related to the recognition not only of university diplomas from the University of North Mitrovica, which operates in accordance with the education system of the Republic of Serbia, but progress has been made regarding the recognition of secondary and primary school diplomas providing education in Serbian language, because the solution of this issue has a wider dimension, than just education and therefore there is a need for further progress in a positive direction in resolving this issue.

Based on the information received by the OIK from the MES,¹⁶⁶ the government has conducted a preliminary analysis regarding this issue and in the middle of 2019, with Decision No. 08/102, has drafted and approved the Concept Document “*Application for jobs from members of non-majority communities, who possess diplomas issued by parallel educational institutions in the Republic of Kosovo, where teaching is conducted in Serbian language*”.

The purpose of this document is to amend and supplement Regulation No. 21/2015 on procedures and criteria for issuing certificates to citizens of the Republic of Kosovo, who have graduated from the University of North Mitrovica, in order to apply for a job, obtain professional licenses and take professional exams in public institutions. These amendments and supplementation to Regulation No. 21/2015 will define the procedures and criteria for issuing certificates not only for citizens of the Republic of Kosovo, who have graduated from the University of North Mitrovica, but also for all citizens who have graduated in other pre-university educational institutions and university, where teaching is conducted in Serbian language. Therefore, the Ombudsperson hopes that during the first half of 2021, the government will approve the draft regulation in order for this issue to be regulated.

In addition to the positive examples, it should be noted that problems affecting the Turkish and Bosniak communities over the years related to improving the quality and translation of textbooks and handbooks for primary and secondary schools in the languages of these minority communities have not yet been resolved.¹⁶⁷ When it comes to the education system, which is attended by members of the Gorani community, it should be said that there is still a big problem of poor infrastructure in schools, lack of space for all students who attend classes, especially non-functional toilets are a big problem in the villages in the municipality of

¹⁶⁶Response to the recommendation sent by the OIK to MEST regarding the topic directly related to the recognition of high school diplomas in the Serbian language in Kosovo for the case A. No. 210/2019 Ž.B, the response was received on 9.12.2020.

¹⁶⁷Information received from the representative of the Bosniak community in the Community Consultative Council, dated 20.12.2020.

Dragash, where students from the Gorani community attend classes. Members of the Gorani community are divided in terms of education and some members of this community attend classes in Serbian language, according to the education system of the Republic of Serbia, whereas the others attend classes according to the system of the Republic of Kosovo, based on the curriculum for the Bosnian language. In addition to those mentioned above, there are also difficulties in transporting students to schools, which is not regular, it often the case that parents organize transportation for children, which poses a major problem in the winter period, due to the bad roads that connect the villages, as well as due to their impassability during snowfall.

Affirmative measures related to university education are regulated by the Law on Higher Education¹⁶⁸ as well as with the Administrative Instruction No. 09/2016 on the implementation of affirmative measures and reserved seats for enrolment of students from non-majority communities in public universities of higher education.¹⁶⁹ Although affirmative action measures for minorities are provided for in both the Law on Higher Education and the abovementioned Administrative Instruction, positive measures for minority communities are not provided for in the Administrative Instruction for Specialized Education.¹⁷⁰, which is implemented together with the Law on Health.¹⁷¹ The Administrative Instruction in question provides only reserved places for assigning specializations for specialist education within health professions for medical graduates from the Presheva Valley, whereas such places are not provided for members of minority communities.

Therefore, the Ombudsperson considers that affirmative measures related to members of minority communities are necessary at all levels of education, which in terms of importance include specialized studies within the medical profession, in order to meet the needs for increased representation of non-majority communities in all spheres of society, with their integration and greater inclusion in the system.

During the reporting period, the Ombudsperson did not receive any complaints about school dropouts from students from the Roma, Ashkali and Egyptian communities. However, the OIK is aware of the fact that a large percentage of students from the Roma, Ashkali and Egyptian communities did not attend the distance learning, due to lack of information technology equipment. In this regard, the Ombudsperson considers that the MES should have provided appropriate technological equipment, at least for a number of students with poor socio-economic status, so that they could easily attend distance learning. Furthermore, the state support provided to students from the Roma, Ashkali and Egyptian communities in the framework of the MES initiative for the provision of scholarships for high school students is

¹⁶⁸ Law No. 04/L-037 on Higher Education in the Republic of Kosovo, dated 9.9.2011.

¹⁶⁹ Administrative Instruction No. 09/2016 on the implementation of affirmative measures and reserved seats for enrolment of students from non-majority communities in public universities of higher education.

¹⁷⁰ Administrative Instruction No. 05/2017 for Specialized Education.

¹⁷¹ Law No. 04/L-125 on Health.

commended, in which case a total of 600 scholarships were awarded in the academic year 2020/21.¹⁷² In this case, the research conducted by UNICEF in cooperation with the Kosovo Agency of Statistics regarding the education of Roma, Ashkali and Egyptian children should be reviewed and analysed. The research showed that when it comes to education, the situation has not changed at all in the last 6 years, when the last study of this kind was conducted.¹⁷³ Participation and attendance at primary school is satisfactorily and high, but the negative information is that only 31% of Roma, Ashkali and Egyptian children finish high school, respectively attend high school to the end of high school and that the situation in the last 6 years is without positive changes, despite affirmative action measures, which are promoted and implemented from year to year.

Use of language

In addition to the mandate defined by the Constitution and laws, the Ombudsperson has also monitored the implementation and observance of the Law on the Use of Languages¹⁷⁴, in terms of human rights. The Ombudsperson would like to emphasize the extremely good cooperation with the Commissioner for resolving certain complaints sent by citizens to both addresses, in order to protect their rights to use the language in relation to state bodies, whether at the central or municipal level. Special emphasis should be placed on the consistency and good practice of the Ombudsperson institution in the equal use of both official languages, for which, on 10 December 2020, the latter was awarded an letter of appreciation by the Language Commissioner in cooperation with the OSCE Mission in Kosovo for "Best Practice in the Implementation of the Law on the Use of Languages".

When it comes to implementing the legal framework for the equal use of both official languages, unfortunately there are still problems in the implementation of bilingualism, guaranteed by the Constitution, but also by the Law on the Use of Languages.¹⁷⁵ Progress in this direction is being made slowly, both at the central and municipal levels. The Law on the Use of Languages, adopted 13 years ago, is only partially implemented due to insufficient human and financial resources, which is often accompanied by an insufficient understanding of obligations, as well as a lack of political will. This fact came to light during a public health emergency, due to the COVID-19 pandemic in Kosovo, in early 2020. Specifically, during the emergency situation in public health, the Ombudsperson received a complaint¹⁷⁶ against the Ministry of Health and against the National Institute of Public Health, on the grounds that

¹⁷²Information received from the executive director of the NGO "VoRAE" Mr. Isak Skenderi, dated 26.1.2021.

¹⁷³2019-2020 Kosovo MICS and Roma, Ashkali and Egyptian Communities MICS SFR ALB v2 (mics-surveys-prod.s3.amazonaws.com) – 45% of children attend pre-school education, 84% primary school, 64% lower secondary school classes and only 31% upper secondary school classes. The same information was provided to the OIK by the NGO "VoRAE" on 26.1.2021.

¹⁷⁴Law No. 02/L-037 on the Use of Languages.

¹⁷⁵Constitution of the Republic of Kosovo, Articles 5 and 59, and Law No. 02/L-037 on the Use of Languages.

¹⁷⁶Complaint No. 250/2020 Z.V. against the Ministry of Health and the National Institute of Public Health of Kosovo, filed on 24.3.2020.

all relevant information regarding the COVID-19 pandemic and the epidemiological situation in the territory of the Republic of Kosovo, as well as regarding the defined measures, were published only in Albanian language, which is contrary to the Law on the Use of Languages, the Constitution, but above all it is contrary to the equal information of citizens in both official languages.¹⁷⁷

Regarding the complaint in question, the Ombudsperson confirmed the allegations in the complaint and recommended¹⁷⁸ to the Ministry of Health and the National Institute of Public Health of Kosovo (NIPHK) to act in accordance with Article 5.1 of the Constitution and Law No. 02/L-037 on the Use of Languages and that citizens and the public, in a timely manner and without delay, inform them through their official websites in both official languages of the Republic of Kosovo, in accordance with the constitutional and legal provisions in question. In the responses that the Ombudsperson received on 17 April 2020, both responsible parties stated that the recommendations given will be implemented. Some of the recommendations were implemented, such as: notice to the public that are forwarded to media journalists who report in Serbian language, but also the platform "Kosova.health", which is located within the website of the Ministry of Health (www.msh.rks-gov.net), which contains information exclusively for COVID-19 in three languages: Albanian, Serbian and English. However, as of 31 December 2020, the NIPHK website is still in Albanian language only, whereas the website of the Ministry of Health is not regularly updated.¹⁷⁹

A representative of the Bosniak community in the Community Consultative Council reported on similar issues, stating that during the COVID-19 pandemic, this community received notices and administrative instructions only in Albanian language in schools working in Bosnian language, whereas the translation in Bosnian language was delayed. Also, the Community Consultative Council, for its part, drew attention and presented remarks regarding the notifications for the provision of aid, but also the information on how citizens could apply for aid, which were in Albanian language, whereas the link that citizens could use and complete the application in Serbian or Bosnian language was either non-functional or incomprehensible, i.e. the notices were not translated accurately, as provided and published in the original information in Albanian language.¹⁸⁰

When summarizing all the above, it should be concluded that the legal framework is good, the Law on the Use of Languages is wide in the spectrum of rights granted, but its application in practice is problematic. Positive developments and examples are evident, but inadequate,

¹⁷⁷Information received from the Commissioner for Languages, on 28.12.2020.

¹⁷⁸Complaint No. 250/2020 Z.V. Letter of Recommendation to the Ministry of Health, sent on 15.4.2020.

¹⁷⁹<https://msh.rks-gov.net/sr/access> realized on 4.1.2021.

<https://niph-rks.org/access> realized on 4.1.2021.

¹⁸⁰Information received from the representative of the Bosniak community in the Consultative Council for Communities, dated 20.12.2020.

so it is necessary in the coming period to work to make effective equality visible, in order to meet the standard given by the legal framework.

Integration of Roma, Ashkali and Egyptian communities and problems with unemployment

The Strategy and Action Plan for the Integration of the Roma and Ashkali Communities (2017-2021) is primarily a guideline to public policies, programs and actions related to protection, education, employment and social policies, housing, health, gender, security and civil registration. However, based on the information available to the OIK, no progress has been noticed in the implementation of this strategy.

A number of international reports, including the European Commission's 2020 report on Kosovo, point out that the situation of the Roma, Ashkali and Egyptian communities remains a serious problem and progress on the rights of these communities is limited. On this occasion it should be noted that at the end of 2020, the EU adopted a new strategic framework for the period 2020-2030¹⁸¹, which can serve the Government of the Republic of Kosovo as a starting point in drafting a new strategy, which would be more effective in its implementation than all the previous ones that did not give satisfactory results, especially when it is about the employment of members of the Roma and Ashkali communities.

When looking at the EU document in question, the first change noticed is that the new Framework moves from an "integration" approach to "equality, inclusion and participation". It is emphasized that the solution to the Roma problem, and also in the context of Kosovo: of both Ashkali and Egyptians, one can only work effectively if the phenomenon of discrimination and anti-Gypsyism, which is a key structural factor of exclusion, is combated together with the socio-economic perspective. Thus, in the coming period it remains to be seen how and in what way Kosovo will harmonize its policy of inclusion of marginalized communities with the new European strategy. Also, in this regard, the NGO "VoRAE" during 2020 raised the issue of changing the narrative regarding the situation of these communities, saying that the key problem of these communities is anti-Gypsyism, namely the specific form of racism, for which topic has been reported by the Kosovo press as well as a large number of online portals, where a number of key political figures in power have also expressed their views. It remains to be seen whether the discourse in resolving this issue will improve and change in the coming period.¹⁸²

The Office of the Prime Minister of the Republic of Kosovo, in implementation of the Declaration of the Balkan Partners for Roma Integration in the European Union Enlargement

¹⁸¹“EU Roma strategic framework for equality, inclusion and participation 2020-2030”, published in early October 2020, see the following link:https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package_en

¹⁸²Information received from the executive director of the NGO "VoRAE" dated 26.01.2021, also see the following link<https://kosovapress.com/kerkohet-strategji-e-re-per-te-adresuar-antigjipizmin/>

Process, has decided to establish a Technical Group for protection against discrimination of the Roma, Ashkali and Egyptian communities.¹⁸³ This group is responsible for implementing the responsibilities arising from the Western Balkans Partnership Declaration on Roma Integration in the European Union Enlargement Process. To this end, the group in question exercises the following responsibilities: cooperates with the responsible institutions, in order to make complaints to members of the Roma, Ashkali and Egyptian communities, due to discrimination against them and forward these cases to the competent institutions; cooperates with the responsible institutions, in order to provide legal support to the alleged victims and identifies the discrimination schemes, including institutional discrimination and covert discrimination, based on the applicable legislation in Kosovo and carries out public awareness activities in order to prevent discrimination against members of the Roma, Ashkali and Egyptian communities. Based on this decision, the OIK exercised its right and appointed an official, who will participate in the sessions and in the work of the group in question, as an observer.

Regarding the unemployment of Roma, Ashkali and Egyptians, the situation remains alarming, because in general, the overall unemployment rate is high. Generally speaking, the general major problem in the Republic of Kosovo is the high unemployment rate for the entire population, however, the communities in question find it particularly difficult to cope with this problem, which requires a more systematic approach. As already mentioned, members of these communities are mainly self-employed by collecting things and with seasonal work, a large number do heavy physical work for a small monetary compensation, mainly in the so-called gray area, over which the state has no relevant supervision, as well as within municipal enterprises. They are less often employed in management positions, in the civil service, in formal education, in health care, in private enterprise, etc. It is a fact of lack of success that in 56 state institutions, where 30,635 employees are employed, only 113 employees are from the ranks of Roma, Ashkali and Egyptian communities.¹⁸⁴ Financial incomes and in general the material situation in the Roma, Ashkali and Egyptian communities deteriorated even more during 2020, during the COVID-19 pandemic, whether due to the loss of the job in the informal sector, or due to high competition in the labour market in general and general unemployment in Kosovo, which can be observed also based on the significant increase in the number of applications for social assistance for families in need which are member of these communities.¹⁸⁵

¹⁸³Decision of the Government of Kosovo No. 138/2020 dated 11.09.2020.

¹⁸⁴Information received from the executive director of the NGO "VoRAE", dated 26.1.2021.

V.National Preventive Mechanisms against Torture (NPMT)

V. National Preventive Mechanisms against Torture

The Republic of Kosovo is not a signatory to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to this Convention, because it is not yet a member of the United Nations. However, Article 22 of the Constitution of the Republic of Kosovo stipulates that human rights and freedoms, guaranteed by international agreements and instruments, are guaranteed by the Constitution of the Republic of Kosovo. These international agreements and instruments are directly applicable in the Republic of Kosovo and are of priority, in case of conflict, over the provisions, laws and other acts of public institutions. One of the conventions incorporated in this article is the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was adopted on 10 December 1984 and entered into force on 26 June 1987.¹⁸⁶

Whereas on 18 December 2002, the General Assembly of the United Nations, in its fifty-seventh session (57), by Resolution A / RES / 57/199, approved the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment , Inhuman and Humiliating. This Protocol entered into force on 22 June 2006.¹⁸⁷ The main purpose of the protocol in question is to establish a system of regular visits, which are undertaken by independent international and national bodies, to places where persons deprived of their liberty are held, in order to prevent torture and other cruel, inhuman or degrading treatment and punishment.¹⁸⁸

Law no. 05/L-019 on Ombudsperson, which entered into force on 26 June 2015, in Article 17, paragraph 1, defines the Ombudsperson as the National Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: NPMT).¹⁸⁹

Regular and unannounced visits to places of deprivation of liberty, including police detention, detention on remand, visit at health institutions, customs detention, detention at emigration centres and every other place when it is suspected that there are violations of human rights and freedom are the tasks of the NPMT, stipulated by law.¹⁹⁰

Law on Ombudsperson defines that when exercising functions of the National Preventive Mechanisms, the Ombudsperson and his/ her representatives shall have the right to access information about the health status of any person held in places of deprivation of liberty, including access to relevant medical records, as well as, with consent of the person, they shall

¹⁸⁶The Office of the United Nations High Commissioner for Human Rights, at: <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>.

¹⁸⁷The Office of the United Nations High Commissioner for Human Rights, at: <https://www.ohchr.org/en/professionalinterest/pages/opcat.aspx>.

¹⁸⁸ Article 1 of the Optional Protocol to the Convention against Torture.

¹⁸⁹Law No. 05/L-019 on Ombudsperson, Article 17, paragraph 2.2.

¹⁹⁰Law No. 05/L-019 on Ombudsperson, Article 17, paragraph 2.

be entitled to access to his/her personal data.¹⁹¹ NPMT was officially established by the decision of the Ombudsperson, on January 16, 2016.

Methodology of NPMT visits

The NPMT's visits methodology consists of observing, documenting and interviewing persons deprived of their liberty, correctional and police officers, as well as health officials. Article 17 of the Law on the Ombudsperson stipulates that NPMT undertakes unannounced visits to places where the persons deprived of liberty are held. This methodology envisages the preparation of the visit, the determination of the type of visit, as well as the actions that are implemented upon arrival at the institution being visited.

The final conversation with the head of the institution focuses on the most relevant concerns, such as: the relationship between staff and prisoners, incidents between prisoners, accommodation conditions, inadequate health care, non-implementation of procedural guarantees (access to a lawyer, the right to medical services, family contacts, etc.).

Visits conducted

During the reporting period, due to the outbreak of the COVID-19 pandemic worldwide, the NPMT also reduced visits, focusing only on specific issues (in which case no general visits were made to correctional centres and detention, but only to police stations) and has several times suspended visits to places of deprivation of liberty based on the principle of non-infliction of a greater harm.

The NPMT has been in constant contact with detainees through phone numbers, through which they had access at all times, as well as through their families and other sources. Also, the NPMT had continuous communication with the competent authorities through official e-mail, by phone, as well as through direct contacts in certain cases.

During the reporting period, the NPMT has conducted 52 ad-hoc visits to the following institutions:

1. Dubrava Correctional Centre (DCC).
2. High Security Prison (HSP).
3. Correctional Centre for Women in Lipjan
4. Correctional Centre for Juveniles in Lipjan.
5. Correctional Training Centre in Lipjan (CTC).
6. Detention Centre in Gjilan (DCGj)
7. Detention Centre in Lipjan (DCL).

¹⁹¹Law No. 05/L-019 on Ombudsperson, Article 17, paragraph 4.

8. Detention Centre in Prishtina.
9. Police stations such as: Prishtina Regional Detention Centre; Police Station “South” in Prishtina; Police Station “North”; Police Station in Fushë Kosova; Police Stations in Mitrovica – South and North, Police Station in Suhareka; Police Station in Mamusha; Police Station in Prizren, that in Gracanica; in Drenas; in Skenderaj; Police Station in Obiliq; Police Station in Deçan; the one in Junik and Peja; in Gorazhdec; Vitomirica; Ferizaj; Vitia; Gjilan and Kamenica.
10. Student Centre in Prishtina, used as quarantine for a period of time, due to COVID-19.
11. Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (CIRChPP).
12. Institute of Forensic Psychiatry (IFP).
13. Department of Emergency and Intensive Psychiatric Care within the Psychiatric Clinic of the University Clinical Centre of Kosovo (EIPC).
14. House of Children with Mental Disabilities (HChMD).
15. Special Institute in Shtime (SISh).
16. Housing of Elderly Persons and without Family Care in Gurrakoc and Skënderaj.
17. Community Housing for People with Mental Disabilities in Shtime (CHPMD).

Report with recommendations

During the reporting period, NPMT published the report with recommendations on the visits conducted to the abovementioned police stations¹⁹². The report with recommendations on the visits conducted to various police stations was sent to competent authorities, with a total of 9 recommendations.

Cooperation of visited institutions

During the NPMT visits to the institutions where persons deprived of their liberty are held, the mental health and social care institutions, the officials of the visited institutions provided the monitoring team with full cooperation and immediate access. The team, was immediately granted access to all the spaces visited. The team was provided with all the information necessary to carry out the task and was provided with interviews with arrested persons, detainees and convicts, without the presence of correctional officers, police officers, medical staff or psychiatric staff, and of social care.

¹⁹² See at: <https://www.oik-rks.org/2020/09/16/raport-i-mekanizmit-kombetar-per-parandalimin-e-tortures-per-vizitat-ne-stacionet-policore/>

Kosovo Police

During the visits to places of deprivation of liberty, the NPMT did not receive any complaints from arrested persons or from those who were in custody at the time of the visit, for physical ill-treatment or non-observation of fundamental rights guaranteed by the Constitution of the Republic of Kosovo, Law no. 04 / L-076 on the Police, the Criminal Procedure Code and international standards for the protection of the fundamental rights of persons deprived of their liberty.

In 2020, The OIK has registered 6 cases for further investigation against the Kosovo Police based on the allegations of citizens that they have been physically abused¹⁹³, 5 of which are still under investigation, while one case was recommended to the Police Inspectorate of Kosovo to conduct further investigations based on its mandate and to notify the OIK of the epilogue of the investigation.

Overall, the NPMT, based on the visits carried out during this year and previous visits, the review of received complaints, as well as ex-officio investigations, considers that there is no systematic or widespread physical abuse by the Kosovo Police, but these are only isolated cases.

Procedural safeguards against the physical abuse

In the 2nd General Report, published in 1992, the European Committee for the Prevention of Torture (hereinafter: CPT) emphasized the importance of the three fundamental rights of persons arrested by the police, which are: the right to notify a third person of his / her choice of arrest (family member, friend, consulate); the right to have a lawyer; the right to be examined by a doctor of his choice (except for a medical examination by a doctor summoned by the police authorities).¹⁹⁴ According to the CPT, these rights are fundamental guarantees against physical ill-treatment and must be enforced from the moment of deprivation of liberty, regardless of how the matter is defined within the legal system of a country.

The CPT further states that these rights should apply not only in the case of detainees, but also in other cases where citizens are forced to stay in the police facility or with the police for other reasons (for example: for identification purposes).

The fundamental rights of persons arrested and detained by the police authorities are also provided for in the Constitution of the Republic of Kosovo, the Criminal Procedure Code and the Law on Police.¹⁹⁵

During the reporting period, based on interviews with detainees and analysis of documentation during visits to various police stations, the NPMT did not encounter violations

¹⁹³ Case A.no. 670/2020 E.H. against Kosovo Police, under investigation by OIK.

¹⁹⁴ See: <https://rm.coe.int/16806cea2f/>

¹⁹⁵ Constitution of the Republic of Kosovo, Articles 29 and 30. Criminal Code of the Republic of Kosovo, Article 13. Law no. 04/L-076 on Kosovo Police.

of these fundamental rights by police authorities. Furthermore, the NPMT notes that the Kosovo Police has standard forms, through which detainees are notified of their rights and who, through their signature, confirm that they have been notified of these rights. The NPMT has also noted that the Kosovo Police generally maintains an ample records and documentation of any events related to persons in police custody. These standard forms are compiled in Albanian, Serbian and English.

Video and audio recording of interviews as an additional safeguard against physical ill-treatment

The CPT considers that the electronic recording (audio and / or video) of police interviews constitutes an important additional safeguard against the ill-treatment of detainees and the protection of police officers from false allegations of physical ill-treatment.¹⁹⁶ Based on the previous announcement by the Kosovo Police that they have started with the project of supplying a number of interview rooms in several police stations with surveillance cameras, on November 24, 2020, the NPMT requested information from the Kosovo Police on the progress achieved in the project for the installation of surveillance cameras in the interviewers' rooms, as previously planned.

On December 23, 2020, through an official e-mail, the Kosovo Police notified the NPMT that some police stations have arranged friendly rooms for interviewing juveniles, which are also supplied with an audio / video recording system. Furthermore, in this announcement is emphasized that the Kosovo Police has entered into a contract for the supply of video / audio recording equipment, while due to lack of budget, the supply and installation of these systems in the interview rooms has not started. According to the Kosovo Police, the implementation of this project for supplying interview rooms with audio and video recording systems is planned to begin in 2021. The NPMT will continue to monitor the situation regarding the implementation of the project in question in the future.

The physical conditions of the police stations visited

Concerning the physical conditions in places where detainees are held, the NPMT has observed that most of the police stations visited, satisfy the required conditions to accommodate detainees.

Through the report on visits to various police stations during 2020, the NPMT sent some other recommendations to Kosovo Police regarding the physical conditions and other aspects of the fundamental rights of persons arrested or detained.

Regarding the NPMT recommendation to install the call system in all detention centres where this system is not in place, the Kosovo Police had informed the Ombudsperson that this

¹⁹⁶European Committee for the Prevention of Torture, extract from the 12th General Report, paragraph 36. For more, see: <https://rm.coe.int/16806cd1ed/>

recommendation was included in the action plan and would be implemented by December 2020.

Regarding the NPMT recommendation to provide that detainees with sheets and hygiene items, the Kosovo Police informed the Ombudsperson that this recommendation has already been implemented. However, during the visit to the Regional Detention Centre, on October 19, 2020, the NPMT noticed that there was a lack of sheets and hygiene items. The NPMT considers that the competent authorities should address this shortcoming as soon as possible.

Through visits during the reporting period, but also during previous visits, the NPMT noted that no police detention centre provides the detainees with access to the fresh air if they remain in detention for more than 24 hours. In this regard, the NPMT notes that local legislation does not contain provisions which grants detainees access to fresh air if they are detained for more than 24 hours.

Also, the NPMT notes that the CPT, in the published standards for police detention, emphasizes the importance of going out into the fresh air for persons who stay in police detention for more than 24 hours, whenever such a thing is Possible.¹⁹⁷ The notification from the Kosovo Police states that the NPMT recommendation to grant detainees who stay in detention for more than 24 hours at least 1 hour in the fresh air, cannot be fully implemented due to the structure of construction in some police facilities.

Regarding the meal that must be provided to detainees, the Criminal Procedure Code of the Republic of Kosovo stipulates the obligation that if a person deprived of liberty is held for more than 12 hours, he should be provided with three daily meals. The NPMT noticed that the arrested persons, who are sent to detention, are provided three meals within 24 hours, according to the contract the Police has with the contracting company. During the visits, the NPMT noticed that all three meals are the same in terms of content and quantity. Based on this, the NPMT recommended to the Kosovo Police that the detainees be provided with better meals and increase the amount of food. On October 2, 2020, the Kosovo Police informed the Ombudsperson that this recommendation has already been implemented and there are no complaints regarding this issue.

Also, during the reporting period, the NPMT, based on the findings during the visits, has recommended to the Kosovo Police to find another solution or carry out the necessary renovations to create adequate conditions for working and operation of police stations in Prishtina (Police Station North), Police Station "South", the police substation in Gorazhdec, the one in Fushë Kosova, Mamusha, Skenderaj, Mitrovica (station in the north), Vitomirica and Vitia. Kosovo Police informed the NPMT that the Facility Management Directorate was notified about this recommendation.

¹⁹⁷European Committee for the Prevention of Torture, Standards regarding police detention, 12th General Report, paragraph 47, Starsburg, 2002. See at: <https://rm.coe.int/16806cd1ed>.

Regarding medical services, as a basic right, for persons who are arrested by the police, these services are provided by public institutions, such as: Family Medicine Centre and University Clinical Centre, depending on the needs for treatment. The NPMT has not received any complaints from the interviewees regarding this right. Also, from the reviewed documentation it was noticed that the police has identified information in the files of these persons about the right to medical services.

Regarding the right to file a complaint regarding their treatment by the Kosovo Police, detainees have the right to file a complaint at the police station where they are being held, as well as with the PIK. In addition, detainees may file a complaint with the ombudsperson. In order to provide easier access to the services of this institution and to enable the detainees to file a complaint in a confidential manner, the Ombudsperson has installed complaint boxes in the police stations where there are cells for detainees.

The ombudsperson also has regional offices in the cities of Kosovo, and regional officials visit police stations, open complaint boxes, and handle the individual complaints. In addition, all police stations can be visited without prior notice by non-governmental organizations, which sign agreements with the Kosovo Police to monitor compliance with the fundamental rights of arrested or detained persons by police.

Correctional and detention centres

Limitation of certain rights of prisoners during the COVID-19 pandemic

Following the occurrence of COVID-19 on March 11, 2020, the World Health Organization (WHO) declared that the outbreak of the COVID-19 virus had reached the level of a global pandemic. On this occasion, the WHO called on governments to take urgent and aggressive measures to halt the spread of the virus. In accordance with this WHO's statement, the Government of the Republic of Kosovo began to take the first measures, which were followed in the meantime by other even stricter measures to protect the life and health of citizens and to prevent the spread of the virus concerned. Such measures to restrict freedoms and rights were also imposed in correctional facilities and detention centres.

Some rights of prisoners, which are guaranteed by the Constitution of the Republic of Kosovo, Law no. -04 / L-149 on the Execution of Penal Sanctions (hereinafter: LEPS) and other applicable laws, depending on the situation with COVID-19 were restricted and restored after the situation with COVID-19 improved. These rights in general are: contacts with the outside world, realization of family visits and free visits, development of activities inside prisons, etc.

Visits conducted to correctional and detention centres

During the reporting period, the NPMT has conducted ad-hoc visits to the Dubrava Correctional Centre, the High Security Prison, the Juvenile Correctional Centre, Women Correctional Centre, the Educational Correctional Centre, the Detention Centre in Prishtina, the Detention Centre in Mitrovica and the Detention Centre in Gjilan.

The purpose of these visits was to assess the treatment and compliance with the rights of prisoners, which are guaranteed by the Constitution of the Republic of Kosovo, Law no. 04 / L-149 on the Execution of Penal Sanctions (LEPS), Law no. 05 / L-129 on Amending and Supplementing Law no. 04 / L-149 on the Execution of Penal Sanctions, as well as international standards on the rights of prisoners.

Physical abuse

During visits to correctional and detention centres and phone contacts with the detainees during 2020, the NPMT did not receive credible complaints from prisoners about physical mistreatment or excessive use of physical force by correctional officers. In general, the NPMT observed a good interactive communication between prisoners and correctional officers.

Incidents between prisoners

During the reporting period, there were generally no serious incidents between prisoners. The NPMT has received reports from the Prisons Health Department (hereinafter: PHD), which refer to cases where prisoners sought medical assistance due to bodily injuries as a result of clashes between prisoners. During the visits and through official communication with the competent authorities, the NPMT has noticed that these incidents have been identified in the relevant forms and other administrative documents, as well as in the adequate protocols of the health units. Furthermore, based on official notifications and documentation received from the authorities, internal investigations were conducted as well as investigations by the Kosovo Police in certain cases, disciplinary measures were taken based on the findings of disciplinary commissions, and measures were taken to ensure physical security of prisoners.

Due to COVID-19 and based on the observance of the principle of non-infliction of greater damage, the NPMT was not able to always visit the correctional facility or detention centre to verify the relevant facts related to these incidents.

Highly appreciating the actions of the medical staff of the PHD and other security authorities, also through this report, the NPMT reminds the authorities of their obligation to prevent violence between prisoners, for which they are responsible.

This responsibility includes the obligation to care for and adopt preventive measures to reduce the risk of violence, as well as to protect the most vulnerable prisoners. Based on the information gathered during 2020, the NPMT noted that relations between prisoners are generally good and there is no tension between them and incidents between prisoners do not seem to be a major problem for correctional or detention centres.

Accommodation conditions in correctional and detention centres

Article 3 of the Law no. 05/L-129 on Amending and Supplementing of the Law no. 04/L-149 on Execution of Penal Sanctions expressly defines: *“The premises in which a convicted person lives and works must be of sufficient space for each convicted person to have at a*

minimum eight (8) square meters of space for single cells and four (4) square meters for the convicted persons in joint cells, and an adequate amount of natural and artificial lighting for work and reading, heating and ventilation.”

During the reporting period, due to the situation with COVID-19, the NPMT was not able to conduct general visits which would include the assessment of accommodation conditions for prisoners in each correctional and detention facility, visited, except in some of them.

During a visit to **Correctional Centre for Women in Lipjan**, on 1 December 2020, The NPMT noted that the accommodation conditions are at a satisfactory level in terms of living space, natural and artificial lighting, as well as cleanliness. The NPMT considered that the conditions of accommodation in this centre are in accordance with the provisions of the Law on Execution of Penal Sanctions and the CPT Standards.¹⁹⁸

During the visit to the **Correctional Centre in Dubrava**, the NPMT noted that the control room was renovated, some partial renovations were carried out in the hospital, but not of satisfactory quality. The renovation of the kitchen has also started and all the work is done by the prisoners. On December 1, 2020, through an official letter, the NPMT requested from the KCS information on whether there were renovations during 2020 in correctional and detention centres and whether there were assessments if renovations should be carried out in certain correctional or detention centres, in order for the physical conditions to be in accordance with national and international standards.

On December 7, 2020, the KCS informed the NPMT that during 2020, due to COVID-19 and due to budget cuts, it encountered difficulties in carrying out renovations in correctional and detention centres, especially those which are old constructions. Further in this announcement, it was emphasized that despite the difficulties, the following projects have been implemented: the kitchen was renovated in Correctional Centre in Dubrava, renovation of the roof of the control room, installation of a boiler, construction of a chicken farm.

During the visit to the **Juvenile Correctional Centre in Lipjan**, the NPMT noted that the renovation of Block A is nearly finalized and the other blocks were also renovated. According to the announcement from the directorate of this centre, the renovation includes the establishment of rooms for minors with special needs, recreation halls, kitchen, etc.

At the **Smrekonica Correctional Centre**, the kitchen was renovated and lighting was installed. However, the recommendation of the NPMT to renovate the roof of the ward where the convicts are placed in this correctional centre, since during the visit leaking was noticed,

¹⁹⁸European Committee for the Prevention of Torture, Living space for a prison inmate, published on 15 December 2015. For more see at: <https://rm.coe.int/16806cc449>

has not been implemented yet. This recommendation was sent to the Ministry of Justice through the Report with recommendations on the visit to this centre in 2019.¹⁹⁹

The repair of damaged sports fields and floors is in progress in the **High Security Prison**. Security cameras were also installed in some correctional centres (finalized project).

At the end of 2020, the KCS published a notice to the public²⁰⁰, stating that correctional and detention centres have started to be supplied with quality mattresses, pillows and fire blankets, as the current ones are worn and did not meet the standards provided by the LEPS for the accommodation of prisoners. Through reports with recommendations, NPMT has recommended to the Ministry of Justice to eliminate this shortcoming as soon as possible. Therefore, the NPMT welcomes the avoidance of this serious shortcoming by the competent authorities.

Overpopulation

During the reporting period, NPMT observed that overpopulation is not a major problem for correctional and detention centres. In rare cases, slight overpopulation was observed during periods of renovations in certain wards but was avoided without much delay.

Regime

In order to re-socialize prisoners, the Law on the Execution of Penal Sanctions and the Criminal Procedure Code²⁰¹ expressly stipulate the obligation of the competent authorities to engage prisoners at work, cultural activities, educational and sports activities.²⁰²

During the reporting period, based on the visits conducted and official notifications by the competent authorities, the NPMT noted that due to COVID-19, prisoners were restricted certain rights, which are guaranteed by the Law on Execution of Penal Sanctions, such as: family visits, meetings with defense lawyers, free visits, etc. However, at certain periods, these restraining measures were suspended and the prisoners again enjoyed them.

Prisoners in correctional and detention centres engaged in work and other activities, depending on the situation with COVID-19.

During the visit to the **Correctional Centre in Dubrava**, the NPMT noted that about 300 prisoners were engaged at work out of the total number of 600 prisoners. The prisoners were engaged at work in the kitchen, in the farms of the correctional centre, in the slaughterhouses, in the gardens, in maintaining the hygiene, in the wards, etc. Prisoners in this correctional

¹⁹⁹NPMT, Report with recommendations on the visit to the Correctional Center in Smrekonica. For more see at: <https://www.oik-rks.org/2019/05/21/raport-i-mkpt-per-viziten-ne-qendren-korrektuese-ne-smrekonice/>

²⁰⁰Kosovo Correctional Service, shih në: <https://www.facebook.com/SherbimiKorrektuesiKosoves>.

²⁰¹Criminal Procedure Code, Article 199, paragraph 2, and Article 200.

²⁰²Law on Execution of Penal Sanctions, Article 55, and Article 200, paragraph 1.

centre were provided with sports activities as before, except fitness, since the hall was kept closed due to the pandemic.

As part of the training programs provided by the KCS for prisoners in the Correctional Centre in Dubrava, 32 prisoners of this centre were certified. Prisoners successfully completed vocational trainings and were certified in the following areas: Word - Excel, welder, construction, carpentry, cooking.

At the **Women Correctional Centre in Lipjan**, according to the announcement from the directorate and the NPMT's findings during the visit on December 1, 2020, all convicts were engaged in work. Thus, 38 prisoners were engaged at work in the kitchen, laundry, maintenance, sewing of protective masks, sheets, pillows, maintaining the gardens and cultivation of fruits and vegetables, as well as in the manufacture of flower pots and painting. In addition, an agricultural greenhouse was erected in this centre, in which the prisoners are engaged at work.

During this period, 8 prisoners were certified, who successfully completed professional training in tailoring and hairdressing. The certification came as a result of the cooperation between KCS and "Caritas Kosova".

During the reporting period, trainings were held and the third group of convicts was certified in the training entitled "Anger Management". The NPMT was informed that one convict successfully completed her university studies *online*, there were sports activities and activities in the field of dramaturgy (psychodrama), which included 16 convicts.

The Detention Centre in Prizren has significantly more limited opportunities to engage the convicts and detainees at work and other activities, due to the construction of the building, which is a construction of 1960. Based on statistics sent by the Directorate of in this centre, in general 15 prisoners are engaged at work (11 convicts and 4 detainees). Overall in this centre, the regime remains poor and without opportunities to provide more, despite the efforts of the directorate. Such a situation was found in the report with recommendations of the NPMT on the visit to this centre in 2019.²⁰³

The same situation is in the **Detention Centre in Peja**, due to the construction and age of the building. According to the announcement from the directorate, during 2020, in general about 24 prisoners were engaged in maintenance and kitchen work, while the main activity for them is walking in the fresh air and doing physical exercises in the fresh air. NPMT notes that there

²⁰³National Preventive Mechanisms against Torture, Report with recommendations on the visit to the Detention Center in Prizren, see at: <https://www.oik-rks.org/2019/08/06/raport-me-rekomandime-i-mkpt-se-ne-lidhje-me-viziten-ne-qendren-e-paraburgimit-ne-prizren/>.

is no change in relation to the situation found during the visits conducted in 2019 and the findings in the report with recommendations on the visit to this centre.²⁰⁴

In the **Detention Centre in Mitrovica**, which accommodates a number of convicts, based on information from the directorate, currently 21 prisoners are engaged at work, while sports activities are allowed during the time when they go out for fresh air. During this period, behavioural management trainings were organized at this centre, which were completed by 10 prisoners. Also, the workshops (tailoring, carpentry, printing press) of this centre in which prisoners are engaged in work and training, are active except during the first phase of the COVID-19 pandemic.

Regarding the right to fresh air, in general in all correctional and detention centres, this right was exercised without restrictions, in accordance with the Law on Execution of Penal Sanctions,²⁰⁵ except in cases where there were suspicions that the inmate may be infected with COVID-19, where going out for fresh air was reduced to one hour.

Regime for detainees

However, even for this reporting period, the regime offered to detainees in all detention centres remains a concern for the NPMT. In this regard, after visits to all detention centres during 2019 and before, through reports with recommendations²⁰⁶ the NPMT has recommended to the Ministry of Justice to step up efforts to provide detainees with a regime that will enable them to have other daily activities, in addition to walks in the fresh air twice a day for an hour each. The NPMT noted that their engagement at work is rare and, according to the directorates of correctional and detention centres, this is because their engagement is subject to permission from the competent court.

However, in this regard, the NPMT notes that Article 199, paragraph 2, of the Criminal Procedure Code stipulates as follows: “*Detainees on remand may perform work that is necessary to maintain order and cleanliness in their area. To the extent that the institution has the facilities and on condition that it is not harmful to the conduct of criminal proceedings,*

²⁰⁴National Preventive Mechanisms against Torture, Report with recommendations on the visit to the Detention Center in Peja, see at: <https://www.oik-rks.org/2019/12/17/leter-rekomandim-perkitazi-me-viziten-ne-qendren-e-paraburgimit-peje/>.

²⁰⁵Official Gazette of the Republic of Kosovo, Law no. 04 / L-149 on the Execution of Penal Sanctions, Article 37.

²⁰⁶Report with recommendations on the visit to the Detention Centre in Prishtina, published on 22 November 2019, paragraphs 15-21. See at: <https://www.oik-rks.org/2019/11/25/raport-me-rekomandimi-mkpt-se-lidhur-me-viziten-ne-qendren-e-paraburgimit-ne-prishtine/>. Report with recommendations on the visit to the High Security Prison, published on 22 November 2019, paragraphs 12-23. For more information, see at: <https://www.oik-rks.org/2019/11/25/raport-me-rekomandime-i-mkpt-se-lidhur-me-viziten-ne-burgun-e-sigurise-se-larte/>. Report with recommendations on the visit to the Detention Centre in Lipjan, published on 16 August 2019. For more information, see at: <https://www.oik-rks.org/2019/08/19/raport-me-rekomandime-i-mkpt-se-lidhur-me-viziten-ne-qendren-e-paraburgimit-ne-lipjan/>. Report with recommendations on the visit to the Detention Centre in Prizren, published on 5 August 2019. For more information, see at: <https://www.oik-rks.org/2019/08/06/raport-me-rekomandime-i-mkpt-se-ne-lidhje-me-viziten-ne-qendren-e-paraburgimit-ne-prizren/>

detainees on remand shall be allowed to work in activities which suit their mental and physical abilities. The pre-trial judge, single trial judge or presiding trial judge shall decide on this in agreement with the management of the detention facility.”

While the Article 200, paragraph 1, of LEPS, related to the engagement in work of the detained persons stipulates as follows: “*A detainee may work in the workshop, workshops of the economic units within the respective correctional institution only with the approval of the competent court.*”

In the CPT's report on the visit to the Republic of Kosovo in 2015, which was published in 2016 regarding the regime for the detainees, the CPT expressed its concern that despite the efforts of the authorities, the detainees besides two hours of walking per day, spend most of their time in their cells watching TV and playing cards.²⁰⁷

Through this report, The CPT had recommended to the competent authorities in the Republic of Kosovo the following: “*The CPT reiterates its recommendation that the authorities strive to enhance the out-of-cell activities available to remand prisoners in all the establishments visited and, where appropriate, in other KCS establishments.*” Further, the CPT stated that: “*“the longer the period for which remand prisoners are detained, the more developed should be the regime offered to them. To this end, steps should also be taken to ensure that staffing levels are, where required, increased accordingly.”*

After visiting the Republic of Kosovo in October 2020, during a meeting with the Minister of Justice and his staff, the CPT again expressed its concern about the poor regime offered to detainees.

Based on the legislation in force and the CPT's recommendations, the NPMT considers that the competent authorities should make efforts to increase out-of-cell engagements for detainees in other detention centres, as far as possible.

Contacts with the outside world

Applicable legislation²⁰⁸, in the case of convicted persons, stipulates that convicted prisoners have an unlimited right of correspondence (subject to certain exceptions), they are entitled to a visit per month, which lasts for at least one hour, as well as a visit from children and their spouses at least once every three (3) months, for minimum of three (3) hours. In addition, they have the right to place telephone calls.

Regarding phone calls, the Administrative Instruction on House Rules in Correctional Institutions²⁰⁹ stipulates that the convicted person is entitled to place phone calls to close

²⁰⁷The CPT's report on the visit to Kosovo, published in September 2016, paragraph 46. For more information see at: <https://rm.coe.int/16806a1efc>.

²⁰⁸Law on Execution of Penal Sanctions, Articles 62-65.

²⁰⁹Administrative Instruction on House Rules in Correctional Institutions, Article 54.

family members and other persons. During the visits in correctional and detention centres, NPMT has not received complaints by detainees and convicts with regard to this right.

In the case of detainees, Article 200 of the Criminal Procedure Code of Kosovo stipulates that the detainees may receive visits “*within the limits of the detention centre rules,*” based on the permission of the pre-trial judge and upon his/her supervision. Further, the Code stipulates that the correspondence and other visits shall be subject to the decision of the pre-trial judge.

During the reporting period, due to the COVID-19 pandemic, depending on the situation, the KCS was forced to prohibit these rights such as family visits, free visits, meetings with defense lawyers and other contacts with the outside world, depending on the situation with COVID-19. After the situation improved, these rights were restored and the prisoners fully enjoyed them.

Due to the deterioration of the situation with COVID-19 in the Republic of Kosovo, on October 19, 2020, the KCS announced public opinion: “*In order to prevent the spread of the pandemic and to protect the health of prisoners and staff in correctional facilities, the Kosovo Correctional Service was forced to take the necessary actions, in which case it issued an Operational Order to temporarily suspend family visits, visits of non-governmental organizations and weekends for prisoners*”.²¹⁰ Further, this notice emphasizes: “*As an alternative, in all correctional facilities, will be provided the more frequent calls and the virtual communication system through SKYPE according to the institutional procedures. Also, due to the temporary ban on visits, the cleaning of clothes for prisoners will be organized in the facilities.*”

During the reporting period, the NPMT did not receive any complaints from convicts or detainees regarding the right to contact with the outside world. This decision is still in force, while the NPMT will monitor the situation in order to determine whether this measure is proportionate, in accordance with the recommendations of the competent health authorities and whether the same is subject to review from time to time.

Health care in correctional and detention centres

The health services in the correctional and detention centres are managed by the Ministry of Health, respectively the PHD since 2013, as until then this service was managed by the Ministry of Justice. Health services prisoners are provided at the PHD health units in all correctional and detention centres and in public health institutions as needed. The prison hospital also operates within the DCC.

During the reporting period, the NPMT received complaints from prisoners regarding health treatment. In all cases, the NPMT requested medical and administrative reports from the PHD and other authorities, which it analysed and found that in general prisoners were provided

²¹⁰Kosovo Correctional Service, Notice, October 19, 2020. See at: https://shkk.rks-gov.net/al/lajmi_single/2913.

with appropriate medical services even during the pandemic, while some delays in providing medical services or sending prisoners to public health institutions on the recommendation of a competent doctor occurred as a result of the COVID-19 pandemic and sometimes as a result of a lack of means of transport, due to the large number of requests. In all cases, these delays did not cause health consequences for the prisoners.

Medical examinations of newly admitted detainees/convicts

European Committee for the Prevention of Torture in its report on the visit conducted to Kosovo in 2015, has emphasized the essential importance of medical examinations, especially in cases of newly admitted convicts or detainees, not only for identifying infectious diseases and suicide prevention, but also through the contribution that is given to the prevention of torture through the proper identification of injuries.²¹¹

Law on Execution of Penal Sanctions²¹² and SOP²¹³ of the PHD set out the obligation for the newly-admitted convicts to undergo a medical examination within 24 hours of admission. Such obligations are also set out in international acts on the protection of prisoners' rights, such as: Mandela Rules²¹⁴, European Prison Rules²¹⁵. During the reporting period, the NPMT, based on visits conducted and reports sent by PHD, observed that all newly-admitted convicts were undergoing medical examinations within 24 hours of admission.

The NPMT has noticed that during the reporting period, in addition to the usual examinations, the newly-arrived were placed in quarantine for a period of two weeks, to prevent and fight COVID-19 infections.

Confidentiality of medical services

The confidentiality of medical services is foreseen by the SOP²¹⁶, approved by the Ministry of Health, with the LEPS²¹⁷ and the Administrative Instruction on House Rules in Correctional Centres²¹⁸, as well as with relevant international acts on the rights of prisoners.²¹⁹ Even during this reporting period, based on interviews with prisoners and health personnel, the NPMT finds that in general, these health services are provided under conditions that observe

²¹¹ CPT, Report on visit conducted in Kosovo in 2015, published in 2016, paragraph 62. See at: <https://rm.coe.int/16806a1efc>

²¹² Law no. 04/L-149 on Execution of Penal Sanctions, Article 31.

²¹³ Standard Operation Procedures, point 1. See at: <https://msh.rks-gov.net/wp-content/uploads/2013/11/1.-Praktikat-Standard-te-Veprimit-n%C3%AB-DShB.pdf>.

²¹⁴ https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf.

²¹⁵ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804c221d>.

²¹⁶ Standard Operation Procedures, point 11. See at: <https://msh.rks-gov.net/wp-content/uploads/2013/11/1.-Praktikat-Standard-te-Veprimit-n%C3%AB-DShB.pdf>

²¹⁷ Law on Execution of Penal Sanctions, Article 49.

²¹⁸ Administrative Instruction on House Rules in Correctional Centres, Article 25, paragraph 3.

²¹⁹ Mandela Rules, European Prison Rules, CPT Standards, and United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

confidentiality, respectively are provided without the presence of correctional officers, unless their presence is required by the physician. Only the medical personnel have access to the prisoner's medical file.

Staff of correctional and detention centres

Through reports with recommendations for the visits to correctional and detention centres in 2019 and before, the NPMT recommended to the competent authorities that, according to their estimations and depending on the needs, to engage correctional staff and additional social workers, since a considerable lack of correctional officers was noted. Also, the average age and various diseases of some correctional officers were a major problem for the KCS.

During the reporting period, correctional facilities and prisons faced additional burden because some correctional officers tested positive for COVID-19, but also for additional commitments due to this pandemic. Based on the information submitted by the KCS, during the reporting period so far a total of 277 correctional officers were tested, of whom 93 were positive.

Complaints procedure at the correctional and detention centres

An effective complaint system is a fundamental safeguard against ill-treatment in prisons and detention centres. Persons accommodated in these centres should have the opportunity to file a complaint within the prison or detention centre where they are accommodated and to be granted confidential access to the appropriate authority.

Article 91 of the LEPS sets out in detail the procedure under which pre-trial detainees and convicted persons may file a complaint or request to the director of a particular KCS institution. During the reporting period, the NPMT did not receive complaints from prisoners on non-response by KCS competent bodies to their complaints and requests. In addition to the NPMT, prisoners may also file complaints with non-governmental organizations that visit places of detention under their agreement with the relevant ministry.

Complaints against the Parole Board

During the reporting period, the NPMT received complaints from convicts, filed against the Parole Board (hereinafter: PB), for non-delivery of rulings of convicts who filed a claim and whose case was reviewed by this body. These complaints were received in early 2020. Regarding these complaints, depending on the complaints received, the NPMT has requested additional information from the PB and has recommended to the PB to fulfill the obligations to the applicants for parole, which derive from the Regulation for the Organization and Functioning of PB. The situation significantly improved as PB started sending regular notices and rulings to all correctional centres. Afterwards, the NPMT received no complaints regarding the aforementioned issue.

Subsequently, the NPMT received complaints from prisoners for failure to consider their claims for parole, as the PB and other institutions were subject to restraining measures due to the pandemic and limited staffing.

Based on the statistics sent by PB, during the reporting period, PB, from January 1, 2020 to November 30, 2020, held 46 hearings, reviewed 679 claims for parole, approved 264 claim for parole, rejected 366 claims, while in 32 cases the review procedure for parole was terminated due to early parole by the courts, in 15 cases the claims were rejected and 2 claims were suspended. Based on official information sent by the KCS, during the reporting period, 294 convicts benefited from early parole.

Asylum Centre

During the reporting period, the NPMT has visited the Asylum Centre on 31 January 2020, on which occasion, it was briefed by the director of the centre that they are facing a greater influx of asylum seekers than before. During this visit, the NPMT did not receive any complaints of physical ill-treatment, nor of conduct of the centre's officials, including those of the security, which would be contrary to respect for the dignity of asylum seekers, nor for non-respect of their basic rights, which are guaranteed by the Law on Asylum.²²⁰

During the reporting period, there was an increase in the number of asylum seekers seeking asylum in the Republic of Kosovo. In this regard, on December 7, 2020, through official e-mail, the NPMT has requested information from the DCAM on the situation during the reporting period. On December 17, 2020, DCAM informed the NPMT that in 2020, 1362 persons sought asylum in the Republic of Kosovo, who were accommodated in relevant institutions.

Accommodation conditions at the Magure Asylum Centre continue to be up to a high standard. Also, there are suitable spaces for children in this centre, playground inside and outside the yard. According to the announcement by DCAM, even during 2020, asylum seekers were provided with various services, such as: medical services from Kosovo public health institutions, while psychological services were provided by the Kosova Rehabilitation Centre for Torture Victims, as well as courses and training for asylum seekers, requisites and social assistance from the Ministry of Labor and Social Welfare were provided.

Situation management during the COVID-19 pandemic

According to the notification from DCAM, before the cases of COVID-19 emerged in the country, the necessary measures were taken in cooperation with the competent bodies and some international organizations. All measures were taken in accordance with the decisions of the Government of the Republic of Kosovo and the competent health care bodies. These measures generally refer to the restriction of freedom of movement. While, the guideline on

²²⁰Law no. 06/L-026 on Asylum, Article 26.

COVID-19 prevention, issued by the Ministry of Health, were translated into different languages and instructed applicants to adhere to the rules against COVID-19. Also, psychological and legal counselling for asylum seekers was provided *online*.

Free legal aid

Free legal aid, as a fundamental right, continues to be provided by the NGO CRPK (Civil Rights Program Kosovo). While, besides the Ombudsperson, access is also granted to international organizations such as the UNHCR, the CPT, the International Red Cross and local NGOs under the agreement.

Detention centre for foreigners

On January 30, 2020, the NPMT visited the Detention Centre for Foreigners in which at the time of the visit there was only 1 person (citizen of the Republic of Kosovo). The detainee was interviewed by the NPMT and there were no complaints regarding treatment by the authorities or other rights guaranteed by applicable law.

During the reporting period, although this centre is dedicated to accommodation of persons who must be deported from the territory of the Republic of Kosovo by force, the same was used during COVID-19 as a facility for quarantine of foreigners.

Monitoring of operations of forced returns through airlines

During the reporting period, the NPMT monitored two operations at Prishtina International Airport of forced return of citizens of the Republic of Kosovo by the Swiss authorities. This monitoring is based on the Memorandum of Understanding signed between the OIK and the Swiss National Commission for the Prevention of Torture.²²¹ During the monitoring of the operations in question, the NPMT noticed that the returnees returned by force were treated in a humane and correct manner by the police authorities of the Republic of Kosovo. In addition, Kosovo Police extended full cooperation to the NPMT during the implementation of these operations.

Mental health Institutions

During the reporting period, the NPMT visited the Kosovo Forensic Psychiatry Institute (KFPI), the Department of Emergency and Intensive Psychiatric Care of the Psychiatric Clinic (EIPC), the Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (CIRCPP), Special Institute in Shtime, Community Based Home in Shtime, Home for Children with Mental Disabilities in Shtime and Homes for the Elderly and without Family Care, in Gurrakoc and Skenderaj.

²²¹Memorandum of Understanding between the Ombudsperson Institution and the Swiss National Commission for the Prevention of Torture for monitoring of operations of returned by force, signed on 24 April 2019. For more see: <https://www.oik-rks.org/2019/04/25/nenshkruhet-memorandum-i-i-mirekuptimit-ne-mes-te-zvicres-dhe-kosoves-per-parandalim-te-tortures-dhe-monitorim-te-perbashket-te-operacioneve-te-kthimit-me-force/>

The purpose of the visits was to assess the situation of the institutions in question, manage the situation during the pandemic, the progress of the competent authorities in implementing the recommendations of the NPMT, sent through previous reports with recommendations. Due to the pandemic situation and the principle of not causing greater harm, the NPMT did not visit several other mental health institutions. However, the NPMT has requested reports from these institutions focusing on capacity, incidents, and activities and in particular, the challenges during COVID-19.

Kosovo Forensic Psychiatry Institute

The Kosovo Forensic Psychiatry Institute (KFPI) was established in August 2014. It is currently under the management of the Hospital and University Clinical Service of Kosovo (HUCSK). According to the Law on Mental Health, KFPI is an organizational unit of the HUCSK and according to the law in force provides tertiary level services for the whole country. The KFPI accommodates persons who have committed a criminal offense in a state of mental incapacity or substantially reduced mental capacity, who are subject to the order of the competent court for compulsory psychiatric treatment²²², as well as persons who are subject to the court order for psychiatrist assessment with detention in a health institution.²²³

During the reporting period, the NPMT visited the KFPI only once, as a result of the reduction of the visit methodology (it was not a general assessment visit, but an *ad-hoc* one, addressing certain issues) due to the COVID-19 pandemic.

The capacity of this institution is 36 beds (with 12 beds in each ward). KFPI consists of Ward A (Admission / outpatients), Ward B (Compulsory psychiatric treatment), Ward C (Psychiatric expertise), and Ward D (for resocialization). The Ministry of Health, respectively the Hospital and University Clinical Service of Kosovo (HUCSK) is responsible for Wards A, B and D, while the Correctional Service is responsible for management and safety in Ward C.

Patients to whom the court has imposed the measure of compulsory psychiatric treatment with detention in the institution are placed in Ward B. At the time of the visit by the NPMT, 14 patients with open history were present at the KFPI, 3 of them at the therapeutic weekend. According to the information from the staff, there are 7 patients on the waiting list for Ward B. According to the assessments of the leaders of the institution, the number of beds is not sufficient for the whole country.

The director said that there is an additional problem where the competent court did not change the measure in 4 cases, where the court extended their stay in the KFPI, despite having achieved the objectives for treatment of those cases. In this regard, the NPMT notes that in the context of the protection of fundamental human rights, according to international and

²²²Criminal Code of Kosovo, Article 89.

²²³Criminal Procedure Code of Kosovo, Article 508, paragraph 4.

national standards, the competent courts should review decisions on compulsory psychiatric treatment.²²⁴

The patients who brought from KCS are placed in Ward C, who are either detained when the court requires the assessment of mental state (psychiatric expertise) or are convicted who are brought from prison for treatment. At the time of the visit by the NPMT, there were 10 cases present, of which 7 men and 3 women detainees. There is room for only two categories in this ward, and if there are requests for juvenile prisoners, they cannot accept them without freeing space in the ward where the female prisoners are placed.

Ward D - re-socialization is also under KFPI. At the time of the NPMT visit, 16 open history cases were present, of which 6 were on therapeutic weekends. The official capacity of the ward is 12 beds, therefore this situation constitutes symbolic overcrowding, which should be avoided by the competent authorities.

Also, the challenge for the proper functioning of the institution is the treatment of people who are users of narcotics, as the Psychiatry Clinic has only one ward for people addicted to drugs, where they keep them for up to two weeks for detoxification.

Patient accommodation conditions

Overall, material conditions in KFPI are good, rooms have two beds each, patients have access to natural light, ventilation, and the alarm system is available to patients. Patient rooms have lockers, but are damaged and cannot be locked. There is also space for daily stay equipped with chairs, TV, games (chess) and suitable space for the kitchen. During the visit, the NPM noticed that the cable TV system was missing.

Treatment and activities

In addition to assessment, at KFPI drug treatment, psycho-social treatment is also provided. During the reporting period, the supply of medicines was not suitable. That is why family members are often obliged to purchase them. There are shortages of consumables, gloves, masks and sanitizers.

Psycho-social treatment consists of activities such as: games, watching TV, drawings, daily outings inside the institution (in the promenade of KFPI), individual sessions with a psychologist, etc. The schedule of daily activities is set in conspicuous places, but this schedule is uniform and there are no individual activity plans listed for patients.

Due to the outbreak of the COVID-19 pandemic and based on the decisions of the authorities which provide measures for the prevention of COVID-19, group activities have been reduced,

²²⁴Criminal Code of the Republic of Kosovo, Article 89 paragraph 2. Law on Execution of Criminal Sanctions, Article 176. Law on Mental Health, Article 24. European Committee for the Prevention of Torture, Report on the visit to Kosovo in 2015, published in 2016, paragraph 101. For more: <https://rm.coe.int/16806a1efc>.

4 outings with staff outside the institution were carried out, while family visits have been suspended. During the pandemic the number of calls through the social worker has increased.

Emergency and Intensive Psychiatric Care Ward

During the reporting period, the NPMT, on March 5, August 17 and December 2, 2020, visited the Emergency and Intensive Psychiatric Care Ward (hereinafter: EIPC), which operates within the Psychiatric Clinic of the University Clinical Centre of Kosovo.

EIPC is a closed unit and operates within the Psychiatric Clinic. The age of the patients placed there is usually from 16-65 years old. In this ward are treated cases of various psychotic disorders, bipolar disorders and personality disorders, which cannot be treated in other wards. This ward is the only one in the entire territory of Kosovo. In other regional hospitals, psychiatric wards do not have special rooms where emergency cases are treated. Such cases from all over Kosovo are brought to the EIPC ward of the Psychiatric Clinic in Prishtina. The NPMT considers that psychiatric wards in other regional hospitals should activate special rooms for the treatment of emergency cases. Through its report with recommendations in 2018, the NPMT recommended to the competent authorities the activation of these special rooms for the treatment of emergency cases.²²⁵

Accommodation conditions in EIPC

The capacity of this ward is 14 beds, divided into two wings: 7 beds for men and 7 beds for women. The NPMT has noticed that the walls have not been painted for a long time, some window panes are cracked, and the windows have iron shutters, while the bathrooms are damp. The spaces of the rooms have no decorations, some paintings are on the walls of the living room and in the dining room. The ward has four solitary confinement rooms, two of which are out of order and have inadequate mattresses. Solitary confinement rooms are away from health personnel and the alarm button is out of order. The NPMT considers that the EIPC ward of the Psychiatric Clinic should be renovated as soon as possible.

The NPMT has not received any complaints from patients about physical ill-treatment or staff misconduct that would offend the patient's human dignity.

Measures of restraint

The ward does not use mechanical restraint, but only the pharmacological one as well as the solitary confinement measure. The NPMT considers that as long as the ward uses the solitary confinement measure, this measure of restraint should be subject to a detailed policy for patients who are placed in the solitary confinement room, which should contain information on situations where solitary confinement can be used, target objectives, the duration and the

²²⁵NPM, Report with recommendations for the visit to the Psychiatric Clinic in Prishtina, published on October 26, 2018. See in: <https://www.oik-rks.org/2018/10/29/raport-me-rekomandime-lidhur-me-viziten-ne-kliniken-pskiatrike-ne-qkuk/>.

need for regular review of the solitary confinement decision, the existence of genuine human contacts, the need for staff to be particularly alert.

Any case of use of the patient's physical restraint (manual control, use of physical restraint instruments, solitary confinement) shall be recorded in the specific register created for this purpose (as well as in the patient's file). The data must contain the time when the measure started and ended, the circumstances of the case, the reasons for the application of this measure, the name of the doctor who approved such measure and the data for any injury caused to the patient or to the staff. The NPMT has noticed that the ward does not have a separate register for persons placed in solitary confinement. Therefore, the NPMT finds that the recommendation to establish such a register has not been implemented yet, which was sent to the competent authorities through the report with recommendations published on October 26, 2018.²²⁶

Staff

The NPM has noted that in terms of staff, EIPC, prior to the outbreak of COVID-19, had 15 nurses and a head nurse. But with the outbreak of the COVID-19 pandemic, staff were forced to transfer to wards where COVID-19 patients were treated, which poses a serious challenge for this ward as currently only 3 nurses are in a shift.

The NPMT encourages the competent authorities not to, as far as possible, transfer nurses trained in the category of persons with mental illness to other wards, but rather keep them available for patients at EIPC. The lack of a social worker is also a problem for this department. Through the report with recommendations published on October 26, 2018, the NPMT addressed the issue of lack of social workers and recommended to the competent authorities to increase the number of staff, according to the needs assessment. However this recommendation has not yet been implemented. During the visits, the NPMT received complaints from staff regarding the working conditions and the danger they face in their daily work.

The NPMT considers that not all the needs of the team and multidisciplinary work have been met. Also, the NPMT considers that it is very important to provide ongoing professional training for the management of cases with chronic psychiatric illness.

Security in the ward is provided by private security, which consists of two people. Although intervention in case of incidents is not in the security mandate, they have been invited several times by medical staff to intervene. The NPMT considers it essential that the personnel assigned to safety-related tasks at a psychiatric institution be carefully selected and subject to adequate training before taking on their duties. They should also be closely supervised in the performance of their duties and should obey the authority of qualified medical staff.

²²⁶Ibid.

Treatment and activities in the EIPC ward

During the visits to this ward, the NPMT has noticed that psycho-pharmacological treatment is the main treatment provided to patients. The supply of medicines is currently at a satisfactory level. However, the NPMT has noticed that psycho-social activities are not sufficient. Also, there is a lack of a multidisciplinary team, such as: psychologist, social worker, occupational therapist and there is lack of individual treatment plan. The NPMT considers that the authorities and institutions should ensure the necessary diversity of psycho-social professionals as a precondition for an adequate treatment of patients.

The NPMT was informed that patients are generally brought here by family members or by the police and are patients who are hospitalized against their will. There are also cases when patients are brought by court decision. According to the directorate, after the admission of the patient, the next day his / her health condition is assessed by the relevant medical commission.

Articles 22 and 23 of the Law on Mental Health regulate the issue of involuntary admission without a court decision, which oblige the health institution to notify the competent court.

During the reporting period, but also during previous visits, the NPMT has noticed that this legal criterion is not being applied, i.e. the competent court is not notified as defined by law. Moreover, this non-implementation of the law has been continuing for years and, in addition to the NPMT, this situation was noted with concern by the CPT in the report on the visit to Kosovo in 2007, 2010 and in the Report on the visit to Kosovo in 2015.²²⁷ In all of these reports, this committee had expressed serious concern due to the non-implementation of the relevant law on this issue.

Regarding this issue, again on December 2, 2020, the NPMT submitted a request to the Legal Office of the MoH for additional information, inquiring whether this situation has been omitted and whether this ministry has taken any action to adopt the above-mentioned bylaws.

Regime in the ward

Patients in the ward have a daily routine which consists of activities such as access to outdoor airing (two hours a day, but patients can stay longer), watching TV, eating, and going out in the garden.

Contact with outside world

Due to the outbreak of the COVID-19 pandemic and based on the decisions of the authorities which provide measures to prevent COVID-19, family visits have been suspended, except in

²²⁷European Committee for the Prevention of Torture, Report on the visit to Kosovo in 2007, paragraph 131, published in 2009. European Committee for the Prevention of Torture, Report on the visit to Kosovo in 2007, paragraph 131, published in 2009. See in : <https://rm.coe.int/168069727c>. European Committee for the Prevention of Torture, Report on the visit to Kosovo in 2010, paragraph 88, published in 2011. See in: <https://rm.coe.int/16806972c7>. European Committee for the Prevention of Torture, Report on the visit to Kosovo in 2015, paragraph 111, published in 2016. See in: <https://rm.coe.int/16806a1efc>.

very specific cases, when visits lasted 5 minutes and distance was maintained, but this happened very rarely. During the pandemic, the number of phone calls increased. The standards of the European Committee for the Prevention of Torture regarding involuntary treatment emphasize that the patient's contact with the outside world is essential not only in terms of preventing ill-treatment, but also from a therapeutic point of view.

Patients should be able to send and receive correspondence, access the telephone, and receive visits from family and friends. The director of the clinic should limit the outing and other psycho-social activities, in accordance with the situation with COVID-19 and with the recommendations of the competent bodies. Under no circumstances, this restriction should be a principle and should be subject to occasional review.

Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime

The Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (CIRCPP) operates within the HUCSK and provides services 24 hours a day. CIRCPP is an open institution, residents in this centre are mainly diagnosed with psychotic disorders, such as schizophrenia. The official capacity for accommodation in this institution is 60 residents, while at the time of the visit by the NMPT, there were 62 residents accommodated.

Regarding the accommodation conditions, the NMPT has noticed that the CIRCPP has renovated Ward A, which accommodates women, daily stay and ambulance. In general, the NMPT considers that the accommodation conditions in this institution are now of a high standard.

In the first months of the pandemic, based on the decisions of the competent authorities, this institution decided to ban visits outside the institution (at homes of residents' families), while family visits to this institution were allowed, respecting the protection measures provided with the decisions of the competent bodies.

In terms of staff, there were no staff reductions during the reporting period. The number of staff available is satisfactory to deal with the day-to-day work, but there is a need for: occupational therapist, ambulance driver, external maintenance worker, and cook.

During the visit, the NMPT was informed by the director that 10 residents have been rehabilitated and with a support from the family can be integrated into the family and the community. Based on the statements of the director, requests have been submitted to the mental health centres at the municipal level for these residents to continue further treatment in these centres and also to continue living in their families. Six of these residents were transferred for further stay in their families as their health condition improved. The problem is the unwillingness of families to receive residents whose health conditions is considered to have been improved.

During the visit, the NMPT noted that its recommendation to build a rehabilitation-vocational unit, which is very important in therapeutic terms and for the rehabilitation of residents, has

not been implemented yet. Through this report, the NMPT again requests from the competent authorities to take the necessary measures to establish this unit.

Regarding psycho-social activities, the NMPT noticed that before the pandemic, visits were made outside the institution, respectively going out in the city, twice a week, in groups of 2-3 patients. During the pandemic, exits were restricted, in accordance with the measures of NIPHK and MoH.

On 15 September 2020, the OIK, through e-mail, requested information from the MoH regarding the status of implementation of the recommendations sent by the NMPT. On 9 December 2020, the NMPT received a response in which, regarding the Law on Mental Health, it is stated that a Working Group has been established for drafting the concept document on the Law on Mental Health.

Community Integration Homes

During the reporting period, due to the COVID-19 pandemic, the NMPT did not manage to visit these institutions, based on the principle of not causing greater harm and based on the fact that the residents are categorized as vulnerable due to their age. However, the NMPT through official documents has requested information on the situation from each CIH. Based on the information sent by the Community Integration Homes (CIH) in Prizren, Ferizaj, Mitrovica, Gjilan and Peja, these institutions have a capacity for 10 people and currently this number is met. However, despite the legal and constitutional obligation to respond to the Ombudsperson's requests, the NMPT did not receive a report from the CIHs in Bresje and Drenas.

According to the reports sent, there were no residents infected with COVID-19 in these institutions and no shortage of necessary staff was reported. During the reporting period, CIHs have complied with the recommendations of the HUCSK COVID-19 Situation Management Committee, according to which, in some phases, certain rights were restricted, such as: family visits, walks and other off-site activities.

Based on the reports submitted, no incidents were reported in the CIHs, whether attacks on staff or incidents between residents.

In terms of supplies to the CIHs, the above institutions reported satisfactory food supplies and reported no problems with heating or clothing. Also, no problems were reported regarding the supply of protective materials during the pandemic or the lack of basic psychiatric drugs, except for other drugs that are not in the supply contract, which were provided through other budget lines.

Special Institute in Shtime

During the reporting period, the NMPT visited the Special Institute in Shtime (hereinafter: SISH) on 24 January 2020, while on 14 December 2020 it requested a report on the general

situation and various specific aspects, which are related to the treatment of residents, health care, the challenges faced by the institution, as a result of COVID-19, psycho-social activities, family visits and visits outside the institution, etc.

Regarding the COVID-19 pandemic, the SISH reported that decisions and regulations for pandemic management were issued in accordance with the recommendations of the NIPHK and other decisions of the competent bodies for combating the COVID-19 pandemic. In addition, in accordance with these decisions and recommendations, visits were stopped and the emergency headquarters was established within the institution as well as COVID-19 ward with 8 beds, with separate bathroom and space for special accommodation.

According to the report in question, in this institution, during the reporting period, 10 residents were infected with COVID-19, while 2 are still positive. All residents have been tested and testing continues to be done in case of any suspicion. Regarding the supply of protective materials against COVID-19, the SISH reported that there was a good supply of protective materials and medicines and there were no problems in this regard. The SISH also reported that there was a good supply of food, clothing and heating 24 hours a day.

The institution further reported that during the reporting period there were 18 cases of self-inflicted injury, there were no cases of suicide or physical assault. Regarding psycho-social activities, the SISH reported that internal activities are carried out, while visits outside the institution have been suspended.

Community-based Homes

Due to the COVID-19 pandemic, during the reporting period, the NMPT did not visit these homes, except the Community Based Home in Shtime. Accommodation conditions in this institution are very good.

However, the NMPT has asked the leaders of the Community Based Homes (CBH) in Kamenica, Deçan, Ferizaj, Vushtrri, Lipjan and Gracanica to send their reports on the situation in these homes, particularly information regarding the capacity and number of residents, drug supplies, psycho-social activities, accommodation conditions, systematic medical examinations, eventual incidents between residents, etc. So far the NMPT has received reports from the CBHs in Ferizaj, Deçan and Kamenica, while the CBHs in Lipjan and Vushtrri have not responded.

Due to the COVID-19 pandemic, CBH leaders decided that residents should not leave the institution at all times. As for family visits, they were rare and generally carried out remotely. During this period only the necessary medical visits were performed. The NMPT considers that leaders should limit their attendance and other psychosocial activities, in accordance with the COVID-19 situation and the recommendations of the competent authorities. Under no circumstances, this restriction should be a principle and should be subject to occasional review.

Based on the information received, the NMPT notes that during the reporting period, these institutions did not report cases of COVID-19 infection.

Home for Children with Disabilities - Shtime

The Home for Children with Disabilities in Shtime is managed by the Ministry of Labor and Social Welfare (MLSW) and is the only open-type institution that accommodates children with mental disabilities and provides 24-hour services. The NMPT has noticed that the age of all residents is over 18 years, except one resident, who is 16 years old.

In the visit to this institution during the reporting period, the NMPT noticed that the residents in this institution are treated humanely and has not noticed any indication of physical or mental ill-treatment of the residents accommodated in this institution.

With regard to family contacts and visits, visits were not allowed due to the COVID-19 pandemic, except in one specific case where a resident was allowed to visit outside the institution. To ensure greater safety of residents due to the pandemic, they are able to contact families by phone. During the visit, the NMPT was informed that there were no cases infected with COVID-19 among either the staff or the residents, and that the municipality had provided them with protection material for the pandemic situation.

Home for the Elderly without Family Care in Prishtina (HEFC)

The home for the Elderly without Family Care in Prishtina (HEFC) in Prishtina is an institution of social character and operates within the MLSW. The official capacity of this institution is 100 people. The NMPT was informed by the manager of this institution that currently 67 residents, 38 women and 29 men are housed in this institution.

In terms of staff, there are currently 53 employees, while 11 employees were employed through the Employment Office during the pandemic. Some employees were infected with COVID-19, but after recovery they returned to work. In addition, 4 employees hired by a cleaning company work at the institution. Through this report, the institution's head said that the current staff is sufficient in relation to residents.

Due to the pandemic and based on the decisions of the competent bodies, the institution issued several recommendations in writing in order to comply with all recommendations of the NIPHK, WHO, MoH and government decisions for protection from COVID-19.

Visit to the Home for the Elderly in Gurrakoc

The visit to the Home for the Elderly without Family Care, located in Gurrakoc, was conducted on 27 February 2020. The purpose of the visit was to assess the treatment of residents, accommodation conditions, psycho-social activities available, etc. The NMPT was informed that the official capacity of the house is for 20 people, while currently there were a total of 18 elderly persons (10 females, 8 males).

Regarding the infrastructure and accommodation conditions, the NMPT has noticed that two elderly persons stay in a room, the rooms where the residents are accommodated are large, with sufficient natural light, equipped with good beds, with covers and personal lockers. The living rooms have a desk where the elderly eat, as well as a television set. The NMPT has noticed that the elevator is functional, which significantly facilitates the movement of elderly people. The bathrooms and toilets were separate for both sexes and clean.

Medical care is provided by the general practitioner, who visits them twice a week. Visits to the internist or to any other specialist under the guidance of a general practitioner are made at the family medicine centre or at the regional hospital. However, the NMPT has noticed a lack of a psychologist and a room for physiotherapy services. At the disposal of the institution and the elderly is also an ambulance, which greatly facilitates the work of medical staff.

Regarding psycho-social activities, the NMPT has noticed that walkabouts are organized for residents 5 times a year outside Gurrakoc. Apart from card games, there are no other activities for residents. Outdoor activities have been suspended during the pandemic.

Visit to the Home for the Elderly without Family Care in Skenderaj

The NMPT visited this home on 11 February 2020, before the onset of the pandemic. During the visit, the NMPT noticed that 16 people were accommodated in this house, while the official capacity is for 20 people. Residents are divided into three categories: elderly persons dependent on assistance; semi-dependent; and independent. The centre has a regional character and accommodates residents from Skenderaj, Drenas, Vushtrri and Mitrovica.

In terms of infrastructure, the NMPT has noticed that two persons stay in a room, but there were also rooms, especially those of the dependent category, where there were three or four persons; mostly rooms were large and with sufficient natural light, good beds, covers and personal lockers.

The NMPT has noticed that in the living room there was a TV set and a chess board, while at the disposal of the residents was also a greenhouse, where the elderly engage in work activities. The institution has an ambulance for medical services and a minibus for organizing walks. It is also worth mentioning that the elevator is fully operational, which has a positive impact, because residents feel free and safe to go outside the building.

The bathrooms and toilets are shared, the cleanliness level was satisfactory, there were no problems with hot water or electricity. A good supply of hygienic materials was also observed.

In terms of health care and drug supply, no problems were observed. Within the institution was the doctor's room and the pharmacy, but there is no doctor. Medical services are provided at the family medicine centre. The absence of a doctor and physiotherapist was also noted. According to the head of the house, the funds have been allocated to build the physiotherapy room.

The head of the institution emphasized that the issue of the psychologist was discussed with the Centre for Social Work, where they requested that the CSW psychologist be engaged twice a week in the home for the elderly.

VI. International cooperation

VI. International Cooperation

The cooperation of the National Human Rights Institutions (NHRI), such as the Ombudsperson of the Republic of Kosovo, with international human rights mechanisms, is an essential requirement of the Paris Principles²²⁸, because in addition to protecting and promoting the rights of rule of law and good governance at the local level, they also serve as a bridge in overseeing the effective implementation of international human rights obligations stemming from international mechanisms and instruments that are part of the international human rights system.

Due to the importance of these institutions at the international level, the 2030 Agenda for Sustainable Development of the United Nations²²⁹ has included, through objective 16.A.1: “*Existence of independent national human rights institutions in compliance with the Paris Principles.*”²³⁰ This is due to the fact that, as the Merida Declaration²³¹ states: “*will provide an important framework for the implementation of the SDGs, and the implementation of the SDGs will contribute to the realization of human rights.*”

Last year, the Venice Commission adopted the “*Principles on the Protection and Promotion of the Ombudsperson Institution*”, referred to as the “*Venice Principles*”²³², which represent a set of internationally recognized standards for Ombudsperson Institutions and are equivalent to the Paris Principles. This year, in order to strengthen the position of Ombudsperson institutions worldwide to exercise their independent mandate, the United Nations General Assembly on 16 December 2020, adopted a resolution on “*The role of the Ombudsperson and mediator institutions in the promotion and protection of human rights, good governance and the rule of law*”²³³, which marks a very important step in creating a global standard for these institutions.

²²⁸ The Paris Principles are the minimum criteria that a national human rights institution must have in order to be considered credible, independent and effective in the international arena.

²²⁹ Agenda 2030 includes 17 Sustainable Development Goals (SDGs). They are urgent calls for action for all developed and developing countries for a global partnership in their implementation. The objectives are primarily aimed at ending poverty and other deprivations through development and strategic action that improves health, education, reduces inequality and promotes economic growth. The Assembly of the Republic of Kosovo, approved the resolution on the SDGs on 25 January 2018.

²³⁰ 2030 Agenda for Sustainable Development, objective 16, accessible at:

https://www.ohchr.org/Documents/Issues/HRIndicators/SDG_Indicator_16a1_Metadata.pdf

²³¹ Merida Declaration on the Role of National Human Rights Institutions in Implementing the 2030 Agenda for Sustainable Development, Article 12, accessible at:

[https://nhri.ohchr.org/EN/ICC/InternationalConference/12IC/Background % 20Information / Merida% 20Declaration% 20FINAL.pdf](https://nhri.ohchr.org/EN/ICC/InternationalConference/12IC/Background%20Information/Merida%20Declaration%20FINAL.pdf)

²³² 25 Venice Principles for Ombudsperson Institutions, Venice Commission,

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2019\)005-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)005-e)

²³³ United Nations General Assembly, Resolution on the role of Ombudsmen and Mediators in promoting and protecting human rights, good governance and the rule of law, 16 December 2020, accessible at: <https://undocs.org/en/A/RES/75/186>

The Ombudsperson Institution of the Republic of Kosovo (OIK), as an independent constitutional institution for human rights, continues to be committed to the full realization of international obligations and the maintenance of good cooperation with various international institutions. To this end, despite the problems caused by the crisis with the global pandemic COVID-19, this year it has participated in a large number of international meetings, as listed below:

No.	Activity description	Date
1.	International seminar for marking the 20th anniversary of establishment of the Ombudsperson Office in Thailand. Bangkok, Thailand.	10-15 February 2020
2.	Visit for exchange of knowledge and good practices within the ENNHRI project “Role of NHRIs in conflict and post-conflict situations”. Belfast, North Ireland.	18-20 February 2020
	Meetings held online	↓
3.	Training: “ <i>Introduction to the European Convention on Human Rights and the European Court of Human Rights</i> ”.	13 April 2020
4.	Webinar on Activity of the National Mechanism for the Prevention of Torture during the COVID-19 situation.	27 May 2020
5.	Meeting on COVID-19 and human rights in post-conflict countries.	29 May 2020
6.	Regional meeting on the impact of the COVID-19 pandemic on human rights.	11 June 2020
7.	Video conference on court proceedings and human rights standards.	18 June 2020
8.	TAIEX meeting on good practices in the prevention of domestic violence in the context of COVID-19.	24-25 June 2020
9.	Annual meeting of the Council of Europe Commission against Racism and Intolerance (ECRI) with equality bodies.	28-30 September 2020
10.	Academy of National Human Rights Institutions.	29 September - 29 October 2020

11.	Webinar: “ <i>How to make National Human Rights Institutions strong and effective?</i> ”	8 September 2020
12.	Online training sessions: Human rights and protection of minorities.	9-18 September 2020
13.	Webinar: “ <i>How to communicate about human rights during the COVID-19 pandemic?</i> ”	27 September 2020
14.	Seminar: “ <i>Social marginalization of the program of violence against women in situations of forced isolation, emergency circumstances and restrictive measures.</i> ”	5 October 2020
15.	EQUINET General Assembly Meeting.	16 October 2020
16.	Seventh Regional Forum on Rule of Law.	16-17 October 2020
17.	Summer program of the Academy for Young Professionals, with the topic: “ <i>Management of Sustainable Public Development</i> ” (virtual).	19-23 October 2020
18.	The 12th International Conference of Ombuds Institutions for the Armed Forces on: “ <i>Impact of COVID-19 on Ombudsperson Institutions for the Armed Forces</i> ”.	26-30 October 2020
19.	ENNHRI Leadership Webinar.	9-10 November 2020
20.	ENNHRI General Assembly Meeting	16 November 2020
21.	Training session on co-government and social innovation for sustainability.	19 November 2020
22.	Meeting on COVID-19 and the Ombudsperson – raising up to the challenge of a pandemic.	24 November 2020
23.	Regional conference: “ <i>Access to justice for women victims and survivors of violence in the Western Balkans and Turkey during COVID-19</i> ”.	26-27 November 2020
24.	Webinar on interaction with United Nations mechanisms: Universal Periodic Review.	1 December 2020
25.	ENNHRI Annual Conference	2 December 2020

26.	Webinar: “ <i>Human rights: mandatory for proper care</i> ”.	2 December 2020
27.	Exchange of knowledge and good practices: “ <i>Implementation of NHRI mandate and functions in the COVID-19 context</i> ”.	3 December 2020
28.	GANHRI’s annual conference on: “ <i>Climate change: Role of National Human Rights Institutions</i> ”.	4 December 2020
29.	Webinar: “ <i>A treaty for businesses and human rights</i> ”.	9 December 2020

Table: Participation in international meetings

Cooperation with counterparts and other international organizations

The OIK attaches special importance to cooperation with counterparts and other international human rights organizations and networks, and is therefore committed to engaging in various international activities aimed at exchanging information and best practices in the field of human rights and capacity building. This year, despite the crisis caused by the COVID-19 pandemic, the OIK has participated in several international activities, most of which were conducted online, and below we will mention some of the most important ones.

Being a member of the International Ombudsperson Institute (IOI), the OIK has the opportunity to meet with other counterparts not only from the European continent, but also from around the world. As a result, this year, the Ombudsperson received an invitation from the Ombudsperson of Thailand to participate as a panellist in the international seminar organized on the occasion of the 20th anniversary of the establishment of this institution, held on February 10-15, 2020. The central theme of this seminar was “The Future of the Ombudsperson Institution in a Changing World: Adaptation and Cooperation Techniques”. The Ombudsperson of the Republic of Kosovo in his speech highlighted the role of the Ombudsperson institution in some aspects of human rights, which are extremely important and current topics in the world we live in, such as: the role of the NHRMs in initiatives to meet the standards of international human rights law, the creation of human rights indicators, and their role in relation to the achievement of the Sustainable Development Goals and Artificial Intelligence. At the end of his speech, he said: “*I am very convinced that current global developments will have a direct impact on the future of human rights; a new era on a global scale has already begun. Ombudspersons around the world need to recognize this and seize the opportunity to address and contribute to promoting a human rights perspective in line with global developments. This opportunity is also a challenge for all of us in our countries, so we must work together to make our voices heard about international human rights developments.*”

At the beginning of 2020, the European Network of National Human Rights Institutions (ENNHRI), in the framework of the project “*The role of National Human Rights Institutions*

in conflict and post-conflict situations”, enabled a representative of the OIK to participate in a study visit to Northern Ireland, hosted by the Commission on Human Rights. This visit was aimed at obtaining good practices, with a focus on the protection and promotion of cultural rights, as well as transitional justice. During the visit, meetings were held with the most important human rights institutions in Northern Ireland and the visit was considered very successful by both parties.²³⁴

ENNHRI, of which the OIK is a member, was very active during the pandemic, undertaking a number of outreach and coordination activities related to human rights, but also dealing with the situation created after COVID-19. One of them was the 2020 Report on the State of the Rule of Law in Europe²³⁵, which presents the perspective of all member institutions of this network on the state of rule of law in their countries, based on monitoring and data collection during the period April - June 2020, including the part for Kosovo, according to the report sent by the Ombudsperson Institution of the Republic of Kosovo (OIK). National Human Rights Institutions (NHRIs), such as the OIK, are key actors in the promotion and protection of human rights, democracy and the rule of law, and as state-mandated bodies operating independently from the government with a broad human rights mandate. This report identifies key trends in this regard across the region and details the specific situation in each country, including in the context of government response following the spread of the COVID-19 virus pandemic.²³⁶

As mentioned in previous reports, ENNHRI, in cooperation with the OSCE Office for Democratic Institutions and Human Rights (ODIHR), organizes on an annual basis the Academy of National Human Rights Institutions, which this year, due to the pandemic situation, was held online from September 29 to October 29, 2020. This year its focus was on using the NHRI promotional mandate in the framework of migration from the perspective of human rights and was attended by a representative of the OIK.²³⁷

On November 9 and 10, ENNHRI held two online seminars, which focused on the NHRI's opportunities to increase respect for human rights, the rule of law and democracy through new European Union (EU) policy instruments. NHRI and EU representatives exchanged information on how the KRDI's strategic engagement at the regional level could bring about change at the local level.²³⁸ Immediately after the completion of these seminars, the OIK, at the request of ENNHRI, through a report gave its contribution regarding the good practices of interaction of the European Union with NHRIs, in which it revealed all the tools and

²³⁴ More on this visit at: <http://ennhri.org/news-and-blog/european-nhris-take-part-in-ennhri-first-peer-exchange-visits-focusing-on-their-role-in-post-conflict-situations/>

²³⁵ <http://ennhri.org/wp-content/uploads/2020/06/ENNHRI-State-of-the-Rule-of-Law-in-Europe-June-2020.pdf>

²³⁶ ENNHRI published the report on the rule of law in Europe on 30 June 2020, <https://www.oik-rks.org/2020/06/29/publikohet-raporti-i-iap-se-ne-ennhri/>

²³⁷ Academy of National Human Rights Institutions, accessible at: <http://ennhri.org/our-work/nhri-academy/>

²³⁸ For more on conclusions of these very successful seminars, please visit this link: <http://ennhri.org/news-and-blog/advancing-human-rights-in-eu-internal-and-external-policy-what-opportunities-for-nhris/>

methods used within the European integration process for the Republic of Kosovo, in order to strengthen the OIK and its impact as the only national institution for human rights in Kosovo. As a result, the ENNHRI came up with the European Union's Guide to External Action, which lists ten reasons for the HRMI's commitment to human rights and democracy in the EU.²³⁹

Furthermore, on 18 November 2019, the General Assembly of ENNHRI was held, in which the work of this network during the year was discussed. In the first session, the report of the head of the network, the report of the secretariat, the financial report and the accreditation report were approved; in the second session it was voted for the election of the European member for representation in the GANHRI Working Group regarding the age and the election of the European member to represent in the GANHRI Accreditation Sub-Committee; whereas in the third session, all participants were divided into small groups in which the Strategic Network Plan for 2021 was discussed.

On 2 December 2020, ENNHRI held the Annual Conference, bringing together representatives of HRMIs, European and international organizations, and civil society to exchange information on the HRMIs' strategic commitment to strengthening human rights, democracy and the rule of law in Europe. The conference reiterated the fact that the HRMI has an important role to play in promoting EU values and also offers strategic opportunities to increase the protection of human rights by encouraging the implementation of international standards at the national level.

As reported in previous years, with the Law on Protection against Discrimination, the OIK received the mandate as an equality body, and in 2019 was accepted as a member of the European Network of Equality Bodies (EQUINET).

As part of its mandate as an equality body, the OIK participated in several international events. Among the most important was the annual meeting of the European Commission against Racism and Intolerance (ECRI), with the equality bodies for 2020, on the topic: "Joining forces to communicate the message of equality and diversity", which was held on 28-29 September 2020. The main purpose of this seminar was to discuss ways in which institutions engaged in the fight against racism and intolerance can communicate more effectively and how ECRI, equality bodies and other actors can join forces to increase the impact of communication in promoting equality and the fight against racism and intolerance.

On 16 October 2020, the EQUINET General Assembly was held, during which the network work during the year was discussed and the accounts and work plan for the next year were voted on. In a special session, the participants had the opportunity to share their experiences related to dealing with the pandemic as well as the activities undertaken within their mandate as equality bodies.

²³⁹<http://ennhri.org/wp-content/uploads/2020/12/Guide-on-engagement-with-NHRIs-in-EU-external-action.pdf>

In addition to the above, in July 2020 the OIK reported to EQUINET on the actions of the institution taken in response to the situation created during the COVID-19 pandemic and its impact on human rights. This data was published on the website of this network aimed at exchanging experiences and good practices with all member countries.²⁴⁰

It is important to mention the participation in the Annual Meeting and Conference of the Global Alliance of National Human Rights Institutions - GANHRI (which examines compliance of NHRIs with the Paris Principles), which was held virtually this year. On 3 December 2020, the meeting focused on the exchange of knowledge and good practices: Implementation of the NHRI mandate and functions in the context of COVID-19, while on 4 December 2020 a conference was held on “Climate change: The role of National Human Rights Institutions”. As the Republic of Kosovo has not yet joined the United Nations, the OIK has limited opportunities to be part of this important international organization, but has been participating in its activities and meetings as an observer member for years.

In the framework of the cooperation that the OIK has with the Office of the United Nations Commissioner for Human Rights, on 4 December 2020, the Ombudsperson Mr. Naim Qelaj received a letter from Mr. Jose Maria Aranaz, Head of Branch for America, Europe and Central Asia/Technical Cooperation and Field Operations Division, who expressed thereby the readiness of his office to increase cooperation with the OIK in matters of common interest and reflect on possible ways of supporting the institution in the future, which was welcomed by Mr. Qelaj thanking him through another letter in response.

Regarding cooperation with counterpart institutions from the region, we can mention a regional video conference conducted at the initiative of the Commissioner for Protection from Discrimination of the Republic of Albania, with institutions for the protection of human rights in Kosovo, Albania and Northern Macedonia, in accordance with the agreement stemming from the memorandum of cooperation signed last year. The conference discussed the spread of the COVID-19 pandemic in these countries and the measures taken by the state, but also the work of monitoring them by these institutions to ensure those measures were in line with international human rights standards.

In this context, on 10 December 2020, to mark the International Human Rights Day, the OIK organized a regional conference on “Human rights in the pandemic period and the role of National Human Rights Institutions”, which was attended by the highest state authorities, the Head of the OSCE Mission in Kosovo, the Secretary General of the European Network of National Human Rights Institutions (ENNHRI), the ombudsmen from the Western Balkans region, and representatives of civil society and international organizations. The Ombudsperson Mr. Naim Qelaj stressed that the year 2020 found countries around the world in front of a great challenge, in front of a pandemic that endangers people's lives and public

²⁴⁰ EQUINET, Data of equality bodies regarding COVID-19, accessible at: <https://equineteurope.org/COVID-19-response/#data>

health, which has brought consequences in all aspects of society. In his speech, he underlined: *“What should be at the centre of this discussion today is the fact of the principle of legality of restrictive measures, in order to avoid arbitrariness, discrimination and that they are necessary and proportionate to the risk or the situation created.”*

Good cooperation also exists with other counterpart institutions in the region and beyond, with which the OIK is in constant communication on issues of common interest.

As the OIK is already a member of the most important international networks and organizations, this year it has taken care to interact with them, holding joint meetings, exchange of information and good practices, which help to advance international cooperation.

The following is a tabular presentation of the current state of the OIK's membership in international mechanisms:

No.	Network/Mechanism	Membership year
1.	European Ombudsperson Institute (EOI)	2002
2.	South East Europe Children's Rights Ombudspersons Network (CRONSEE)	2009
3.	International Ombudsperson Institute (IOI)	2012
4.	European Network of National Human Rights Institutions (ENNHRI)	2013
5.	Association of Ombudsmen and Mediators of La Francophonie (AOMF)	2015
6.	International Conference of Ombuds Institutions for Armed Forces (ICOAF)	2015
7.	Association of Mediterranean Ombudsmen (AOM)	2016
8.	Network of Ombudsmen for Environment and Human Rights ²⁴¹	2017
9.	European Network of Equality Bodies (EQUINET)	2019

In addition, the OIK is invited to and participates in activities of some other mechanisms and networks, where, due to the political barriers, only as observer member, such as:

²⁴¹ This network was established in 2017 and has been signed by the following countries: Bosnia, Croatia, Kosovo, Montenegro, Macedonia, Serbia and Slovenia.

- Global Alliance of National Human Rights Institutions - GANHRI (which reviews the compliance of NHRIs with the Paris Principles);²⁴²
- European Network of Ombudspersons for Children (ENOC);²⁴³
- National Preventive Mechanisms of the South-East Europe Network (SEE NMPT) (within which the OIK participates in various meetings aimed at ensuring cooperation, promotion and exchange of experience in the field of protection of the rights of persons deprived of liberty).²⁴⁴

Reporting to various international mechanisms

Annually, the OIK receives questionnaires of various topics from international organizations to report on the situation of human rights in Kosovo. This year, several requests for reports and questionnaires have been submitted, as listed in the table below.

Date	Topic of reporting/survey	Organization/institution to which the report has been submitted
17 January 2020	Report on the European Commission enlargement package and the human rights situation in Kosovo.	European Network of National Human Rights Institutions (ENNHRI)
24 April 2020	Report on the work of the National Mechanism for the Prevention of Torture in Kosovo during the COVID-19 pandemic.	European Forum of National Mechanisms for the Prevention of Torture
2 June 2020	Questionnaire on the interaction with United Nations mechanisms.	European Network of Equality Bodies (EQUINET)
10 June 2020	Report on the rule of law in Kosovo.	European Network of National Human Rights Institutions (ENNHRI)
17 June 2020	Report on the response of equality bodies to COVID-19.	European Network of Equality Bodies (EQUINET)

²⁴²The condition for membership in this organization is Kosovo's membership in the United Nations.

²⁴³The condition for membership in this network is Kosovo's membership in the Council of Europe.

²⁴⁴The condition for membership in this regional network is Kosovo's accession to the Optional Protocol to the Convention against Torture.

19 June 2020	Response to the questionnaire regarding crisis management.	International Ombudsperson Institute (IOI)
24 August 2020	Report on the human rights situation in Kosovo.	United States Department of State, through the US Embassy in Kosovo
2 September 2020	Report on youth involvement - communication with young people.	European Network of Equality Bodies (EQUINET)
11 September 2020	Response to the questionnaire regarding the impact of COVID-19 on the work of the Ombudsperson Institutions for the Armed Forces.	Geneva Centre for Security Sector Governance (DCAF)
18 November 2020	Report on the good practices of the European Union interaction with National Human Rights Institutions.	European Network of National Human Rights Institutions (ENNHRI)
4 December 2020	Response to the questionnaire on equality bodies in the EU: status and functioning	European Network of Equality Bodies (EQUINET) European Union Agency for Fundamental Rights (FRA)
7 December 2020	Report on the legal basis of the standards for strengthening and guaranteeing the independence of the NHRI	Office for Democratic Institutions and Human Rights (ODIHR)

Table: List of reports sent to international organizations

VII. Public communication and the media

VII. Public communication and the media

During 2020, public communication and the media has been intensive, using all possible channels of communication in order to raise awareness and promote human rights. Local media have covered the activities of the OIK, although in a different situation this year due to the situation of the COVID-19 pandemic. However, the OIK has worked to increase transparency, continuous and proactive information with the public.

The level of OIK cooperation with the media and the public has been further deepened given the timely dissemination of useful information to the general public. The OIK is committed to return answers to media questions as soon as possible, so that the media are able to report in a timely manner.

Throughout this year, the Ombudsperson and his representatives have participated in interviews, debates and online discussions covered by online media, television and radio. Representatives of the OIK spoke on various human rights issues, such as: protection against discrimination, gender equality, human rights during the pandemic, domestic violence and other topics that fall within the mandate and competencies of the Ombudsperson.

The OIK has also followed media reports focusing on the publication of articles related to human rights. Thus, the OIK has initiated 17 cases (ex officio) based on local media reports.

Table 1: Initiated cases Ex-officio from media reporting

Initiated cases Ex-officio from media reporting	17
Portal "Gazeta Express"	3
Portal "Kallxo.com"	3
Portal "Koha.net"	2
Portal "Drenicapress.com"	1
Television T7	1
Television Klan Kosova	1
Kohavision Television, KTV	1
Portal "Kossev.info"	1
Portal "Insajderi"	1

Portal “Zeri.info”	1
Portal “Prishtina Insight”	1
Portal “Lajmi.net”	1

The Ombudsperson has informed the general public about its opinions on human rights and fundamental freedoms and has contributed to intensive communication on issues important to society during the pandemic and through the social network Facebook. During 2020, the OIK managed to add 1,462 new followers, raising the number to 5,378 followers by mid-December. All events, meetings and activities organized by the Ombudsperson have been presented in the media. The media have been regularly interested in issues involving human rights and the Ombudsperson has always responded positively to media invitations to express its views on the issues they have raised.

In the period for which it is being reported January 1 - December 31, 2020, through the website and social media Facebook are published reports with recommendations of the Ombudsperson, as well as its activities and engagements. The total number of news and information on the website reaches 54. Table 3 presents news, press releases and other information by months.

Table 3: 54 information / statements / announcements published on the website, by months

	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
2020	4	1	4	3	5	9	0	2	4	10	6	6
TOTAL	54											

During 2020, over 100 public appearances were made through the media (interviews, statements, shows, etc.) on television, portals and radio stations. This number of media appearances does not include the distribution or reproduction of the same by electronic portals or other electronic or print media that have borrowed the materials.

At the end of the year, the Ombudsperson organized a special press conference, where it presented the preliminary data of statistics and the work performed during 2020.

The Office of Public Communication and Media also manages the process of receiving requests for access to public documents (APD) addressed to the OIK, as well as processing the responses of institutions to the parties. During 2020, the OIK received 13 requests for access to public documents and for all of them allowed access within the legal deadlines. The requested documents were sent to the parties by e-mail.

VIII. Financing

VIII. Financing

Budget of the Ombudsperson Institution

The OIK is an independent institution, which is financed by the Budget of the Republic of Kosovo. According to the Ombudsperson Law: “*The OIK prepares its annual budget proposal and sends it to the Assembly of the Republic of Kosovo for approval.*”²⁴⁵ According to this legal provision, the OIK is provided with the necessary additional budget for cases of increasing obligations and competencies with this law and other laws, respectively additional relevant and adequate financial and human resources.²⁴⁶

Funding from the Budget of the Republic of Kosovo

The OIK, based on the legal process for the preparation and submitting the regular budget request, submitted its budget request for 2020 to the Assembly of the Republic of Kosovo and the Ministry of Finance.

The budget request for 2020 by the Ombudsperson has been prepared based on the planning of needs and work activities of the OIK for the calendar year 2020. The budget of the OIK for 2019 has been allocated in the monetary amount of €1.373.815.00, which has been dedicated to the following budget categories:

- a) Wages and salaries in the amount of €977.962.00;
- b) Goods and services in the amount of €322.353.00;
- c) Utilities in the amount of € 15.000.00;
- d) Capital expenditures in the amount of € 58,500.00.

We will present the reflection of the OI budget for 2020 according to the budget request of the budget according to the Law on Initial Budget for 2020, according to the Law on Amending and Supplementing the Budget Law for 2020, budget expenditures and declaration of budget savings in tabular form based on general data by economic budget categories. Detailed financial reporting for the budget year 2020 for all economic budget categories and for special economic budget subcategories will be drafted separately and will be sent to the Assembly of the Republic of Kosovo based on regular annual reporting, and the unified form for financial reporting by independent institutions, as required by the Committee on Budget and Finance of the Assembly of the Republic of Kosovo.²⁴⁷

The following tabular presentation will reflect the OI budget for 2020, starting with the *Budget Request, the initial budget of the Budget Law on 2020, the Law on Amending and*

²⁴⁵Law on the Ombudsperson, no. 05 / L-019, Article 35, paragraph 3.

²⁴⁶Ibid.

²⁴⁷The detailed financial report for the OI budget will be sent to the Assembly of the Republic of Kosovo, according to the unique financial reporting form.

Supplementing the Budget Law on 2020, according to the Declarations of budget savings by the OI, the budget reduction by decision of the Government of the Republic of Kosovo and the final budget for 2020.

Table 1: OI budget for 2020, according to the following data:

<i>Economic Category</i>	OI budget request	Budget according to the Law no. 07/L-001	Budget according to the Law no. 07/L-014	Statement of savings by the OIK	Internal budget transfer	Cuts by government decision	Final budget 2020
Wages and salaries	1.079.242.00	977.962.00	977.962.00	47.000.00		12.375.75	918.586.25
Goods and services	329.353.00	322.353.00	222.353.00	45.000.00	9.100.00	27.303.30	140.949.70
Utility costs	15.000.00	15.000.00	8.371.79	2.200.00			6.171.79
Capital expenditures	58.500.00	58.500.00	29.250.00	0.00	9.100.00		38.350.00
Total budget	1.482.095.00	1.373.815.00	1.237.936.79	(94.200.00)	0.00	39.679.00	1.104.057.74

Budget planning, budget spending and declaration of budget savings for 2020 was carried out according to the planned needs and the destination determined to meet the needs and work activities of the OIK, which were in the interest of providing the performance of the mandate, the progress of the work and the functioning of the OIK. Whereas the planning and budget expenditures for 2020 have been affected by the pandemic situation, because a large part of the work activities could not be carried out according to the work plan of the OIK, in which case the non-realization of these work activities has directly affected the non-spending of the planned budget for the budget year 2020. The OIK did not lack internal monitoring and control in the economic and efficient use of the budget.

For 2020, according to legal procedures, the OIK has made the declaration of budget savings in October 2020 in the total amount of €94,200.00. However, with the decision of the Government of the Republic of Kosovo, in December 2020, the OIK budget was harmonized and reduced in different budget categories in the monetary amount of € 39,679.05.

Final budget and the realization of expenditures for 2020

The budget of the OIK for the budget year 2020 was realized in the monetary amount of € 1,054,731.85 or expressed as a percentage for 95.53%, in relation to the final budget of the end of the year. In the following table we present the situation of the final budget in relation

to the budget expenditures for 2020, according to the budget data of economic categories and expressed in percentages.

Table 2: Final budget and realization of budget spending for 2020

No .	Economic categories	Final budget for 2020	Budget spent	Free means	implementation in%
1.	Wages and salaries	918.586.25	918.586.25	0.00	100.00
2.	Goods and services	140.949.70	94.307.94	46.641.76	66.91
3.	Utility costs	6.171.79	3.487.66	2.684.13	56.51
4.	Capital expenditures	38.350.00	38.350.00	0.00	100.00
Total		1.104.057.74	1.054.731.85	49.325.89	95.53

IX. Statistics

IX. Statistics

Statistics summary of complaints and cases

From 1 January 2020 to 31 December 2020, 1419 complaints and requests for advice or legal assistance were filed from the citizens of Kosovo to the OIK headquarters in Prishtina and the regional offices.

The largest number of cases investigated by the OIK during the reporting period were related to: the right to a fair and impartial trial, the right to legal remedies, the right to work and practice the profession, health and social protection, property protection, equality before the law, the right of access to public documents, etc.

The following tables present in detail the total number of complaints filed and cases investigated, the number of ex-officio cases investigated, the ethnicity of the complainants, the gender of the complainants, the number of cases solved, the responsible authorities against which the complaints are filed, the number of reports with recommendations and letters of recommendations for investigated cases, opinions, requests for interim measures, etc.

Table 1: Complaints filed to the OIK during 2020

	Total number of complaints filed with OIK	1419
	Number of persons involved in complaints filed	11197
Ethnicity of complainants		
	Albanian	1270
	Serb	64
	Bosnian	24
	Ashkali	18
	Turkish	15
	Roma	14
	Egyptian	5
	Gorani	4
	Others	5
Gender of complainants		
	Male	1016

	Female	403
Responsible authorities against which the complaints were filed (a complaint may have more than one responsible party)		
	Ministries	422
	Courts	373
	Municipalities	236
	Police	64
	State Prosecutions	63
	Private person	52
	Private companies	52
	Public enterprises	37
	Privatization Agency of Kosovo	18
	Foreign authorities	11
	Others	183

Table 2: Complaints found inadmissible

	Number of complaints found inadmissible	673
Legal basis of inadmissibility of complaints based on the Law on Ombudsperson		
	Non-exhaustion of legal remedies - article 22, point 1.4	205
	In using legal remedies - Article 22, paragraph 1.3	153
	No violation, mismanagement - Article 22, point 1.1	149
	Outside jurisdiction - Article 21, paragraph 1.3.1	106
	Lack of interest, failure of the party - Article 22, paragraph 1.2	40
	Others	20

Table 3: Complaints pending for review during 2020

	Complaints pending for review	26
--	--------------------------------------	----

Table 4: Cases opened for investigation by the OIK during 2020

	Cases opened for investigation of the filed complaints	720
	Cases opened for investigation ex officio	43
<i>Ethnicity of citizens based on cases investigated</i>		
	Albanian	627
	Serb	47
	Bosnian	17
	Turkish	10
	Ashkali	5
	Egyptian	3
	Roma	3
	Gorani	3
	Others	5
Gender of complainants based on the investigated cases		
	Male	521
	Female	199
Responsible authorities of cases investigated by the OIK (a case may have more than one responsible party)		
	Ministries	239
	Courts	215
	Municipalities	148
	Police	39
	State Prosecutions	38
	Public enterprises	20
	Private companies	16
	Privatization Agency of Kosovo	7

	Private persons	7
	Others	72

Table 5: Subject of investigated cases, based on rights guaranteed by the Constitution (one case may involve more than one violation of guaranteed rights)

	The right to a fair and impartial trial	213
	The right to legal remedies	183
	The right to work and practice the profession	165
	Health and social protection	133
	Protection of property	76
	Equality before the law	61
	The right of access to public documents	60
	Child rights	36
	The right to education	25
	The rights of the accused	23
	Freedom of movement	22
	Prohibition of torture, cruel, inhuman or degrading treatment or punishment	15
	Responsibility for the living environment	14
	Human dignity	13
	Right to life	6
	Cases for mediation	5
	The right to marriage and family	4
	Right to election and participation	2
	The right to privacy	2
	Freedom of art and science	2
	The right to freedom and security	1
	Freedom of association	1

	Freedom of expression	1
	The right to personal integrity	1
	The right not to be tried twice for the same offense	1
	Freedom of belief, conscience and religion	1
	Principle of legality and proportionality in criminal offences	1

Table 6: Number of cases closed by the OIK during 2020 (not only cases of 2020, but also cases registered earlier and closed during this year)

	Total number of closed cases	990
Legal grounds for closing cases based on the Law on the Ombudsperson		
	Positively resolved, in accordance with the complainant's request - Article 21, point 1.5	468
	Inadmissible, no violation, maladministration- Article 22, point 1.1	158
	Closed with report - article 24, point 3	146
	Inadmissible, in the use of legal remedies - Article 22, point 1.3	109
	Inadmissible, non-use of legal remedies - Article 22, point 1.4	52
	Closed due to lack of interest of the complainant, failure of the party - Article 22, point 1.2	41
	Inadmissible, outside the jurisdiction - article 21, point 1.3.1	12
	Others	4

Table 7: Reports with Recommendations, Letter of Recommendations, Opinions and Requests for Interim Measure

	Reports on investigated cases (from citizens' complaints)	17
	Reports on <i>ex-officio</i> investigated cases	5
	NPMT reports	1

Letters of recommendation for investigated cases (from citizens' complaints)	19
Letters of recommendation for ex-officio investigated cases	3
Recommendations in reports and letters of recommendation	185
Amicus Curiae	4
Request for interim measure	3
Opinions	3

Table 8: Implementation of the Ombudsperson's recommendations

Responsible authority	<i>Implemented recommendations</i>	<i>Unimplemented recommendations</i>	<i>Pending implementation</i>
Ministry of Internal Affairs	1	0	3
Ministry of Economy and Environment	0	0	2
Ministry of Education, Science and Technology	1	0	3
Ministry of Infrastructure	2	3	0
Ministry of Foreign Affairs and Diaspora	0	3	0
Ministry of Agriculture, Forestry and Regional Development	0	0	1
Ministry of Culture, Youth and Sports	1	0	0
Ministry of Health	0	0	1
Ministry of Justice	0	0	1
Food and Veterinary Agency	0	0	2
Kosovo Police	0	1	9
Education Inspectorate	2	0	0
Kosovo Bar Association and the Committee on Legislation, Mandates,	0	0	1

Immunities, Rules of Procedure of the Assembly and Oversight of the Anti-Corruption Agency			
Privatization Agency of Kosovo	0	1	0
Civil Aviation Authority	0	0	3
CBK	0	0	4
Rector of the University of Prishtina and the Governing Council of the University of Prishtina	0	0	1
Kosovo National Institute of Public Health	0	0	1
Inspectorate of the Ministry of Economy and Environment	0	0	1
Complaints Commission for Foreigners	1	0	0
Assembly of the Republic of Kosovo	0	0	1
Kosovo Prosecutorial Council and Special Prosecution	0	1	0
Basic Court in Prishtina	0	0	1
Basic Court in Prizren	0	0	1
Special Chamber of the Supreme Court	1	0	0
State Prosecution and Kosovo Police Inspectorate	0	0	1
Basic Prosecution in Prishtina	1	0	2
Municipality of Prishtina	4	0	5
Municipality of Kamenica	4	0	2
Municipality of Fushë Kosovë	0	3	5
Municipality of Gracanica	3	0	4
Municipality of Ferizaj	0	0	6
Municipality of Istog	0	0	5
Municipality of Klina	0	0	5

Municipality of Gjakova	0	1	4
Municipality of North Mitrovica	3	0	2
Municipality of Peja	3	0	2
Municipality of Vushtrri	4	0	1
Municipality of South Mitrovica	0	0	5
Municipality of Lipjan	0	0	5
Municipality of Prizren	0	0	2
Municipality of Glogoc	0	0	2
Municipality of Klllokot	1	0	2
Municipality of Gjilan	1	0	1
Municipality of Deçan	1	0	1
Municipality of Podujeva	0	0	2
Municipality of Malisheva	0	0	2
Municipality of Suhareka	0	0	2
Municipality of Rahovec	0	0	2
Municipality of Shtime	0	0	2
Municipality of Junik	0	0	2
Municipality of Obiliq	0	0	2
Municipality of Dragash	0	0	2
Municipality of Mamusha	0	0	2
Municipality of Kaçanik	0	0	2
Municipality of Hani i Elezit	0	0	2
Municipality of Skenderaj	0	0	1
Municipality of Viti	0	0	1
Municipality of Zvecan	0	0	2
Municipality of Zubin Potok	0	0	2

Municipality of Shterpce	0	0	2
Municipality of Novo Brdo	0	0	2
Municipality of Leposavic	0	0	2
Municipality of Partesh	0	0	2
Municipality of Ranilug	0	0	2
Specialized Mathematical Gymnasium-Prishtina	2	0	0
Total	36	13	136

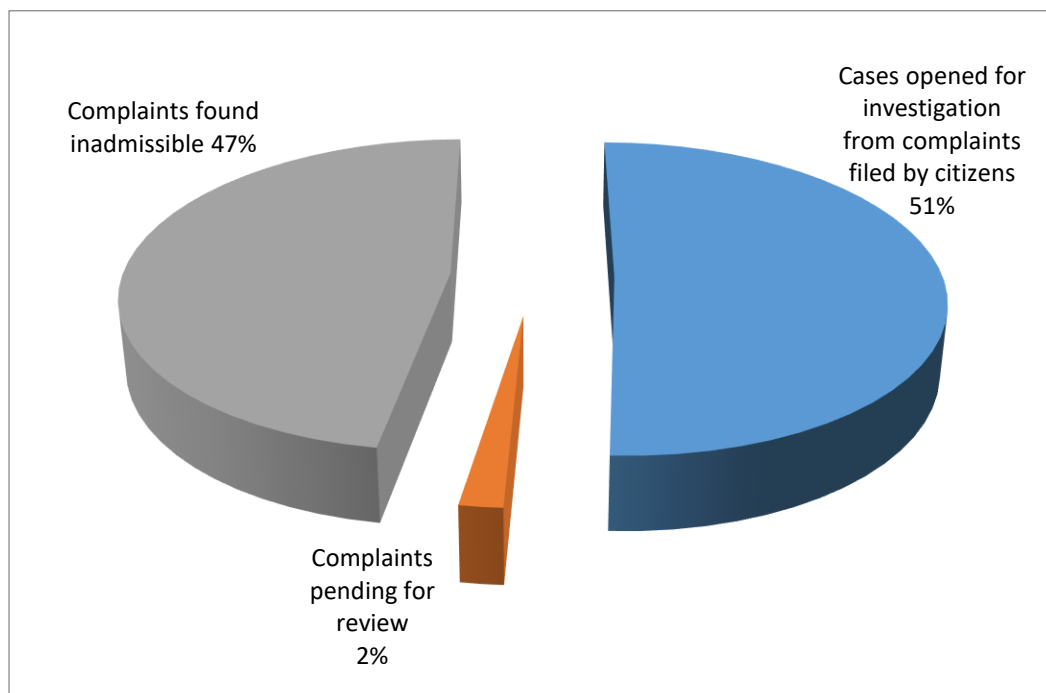
Graphic presentation of statistics 1 January 2020 - 31 December 2020

Figure 1: Review of complaints filed to the OIK

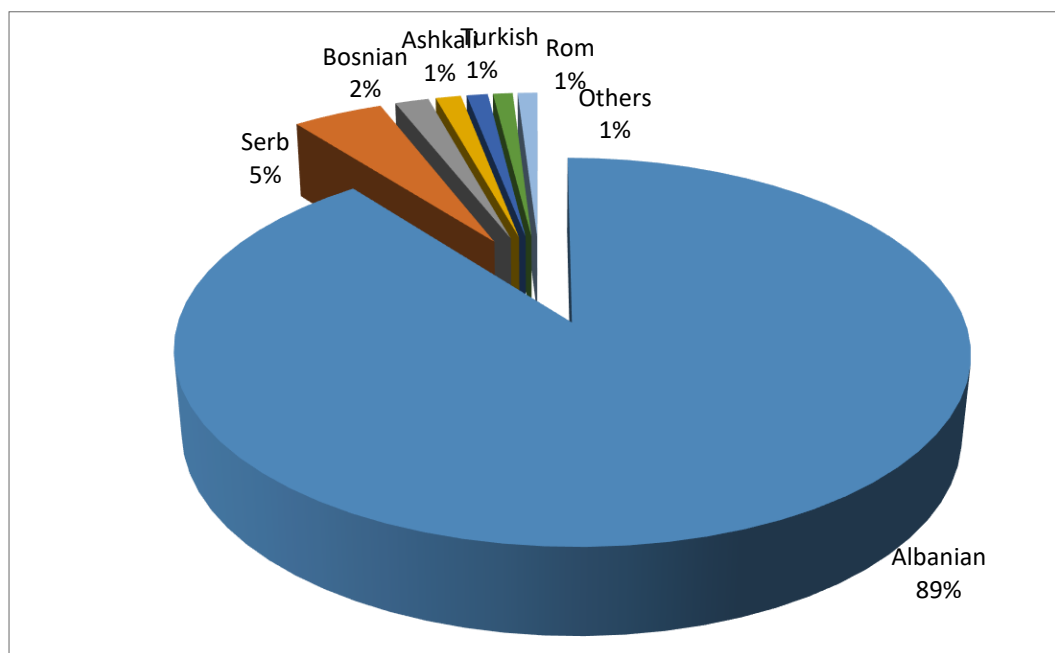


Figure 2: Ethnicity of citizens based on complaints filed

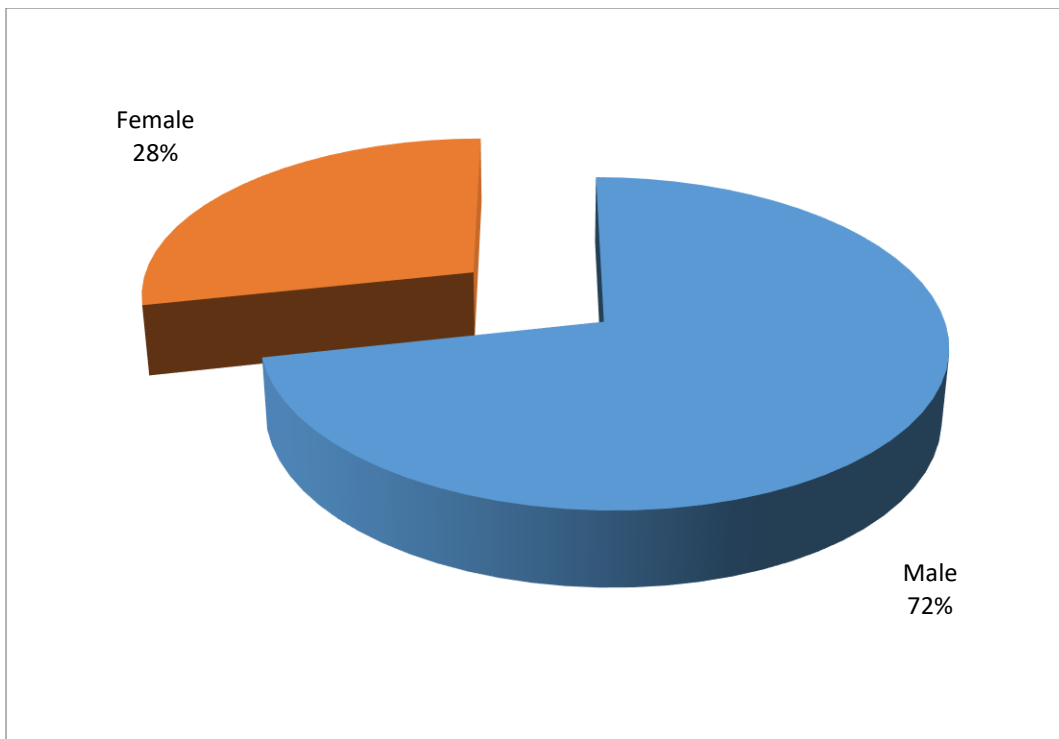


Figure 3: Gender of citizens based on the filed complaints

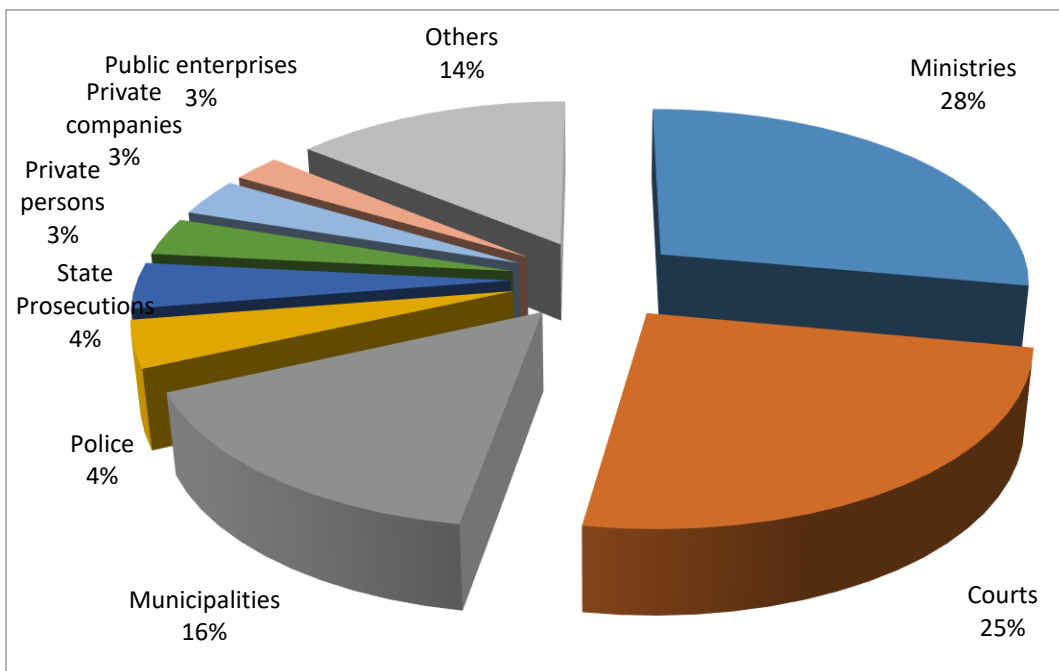


Figure 4: Responsible authorities of complaints filed to the OIK

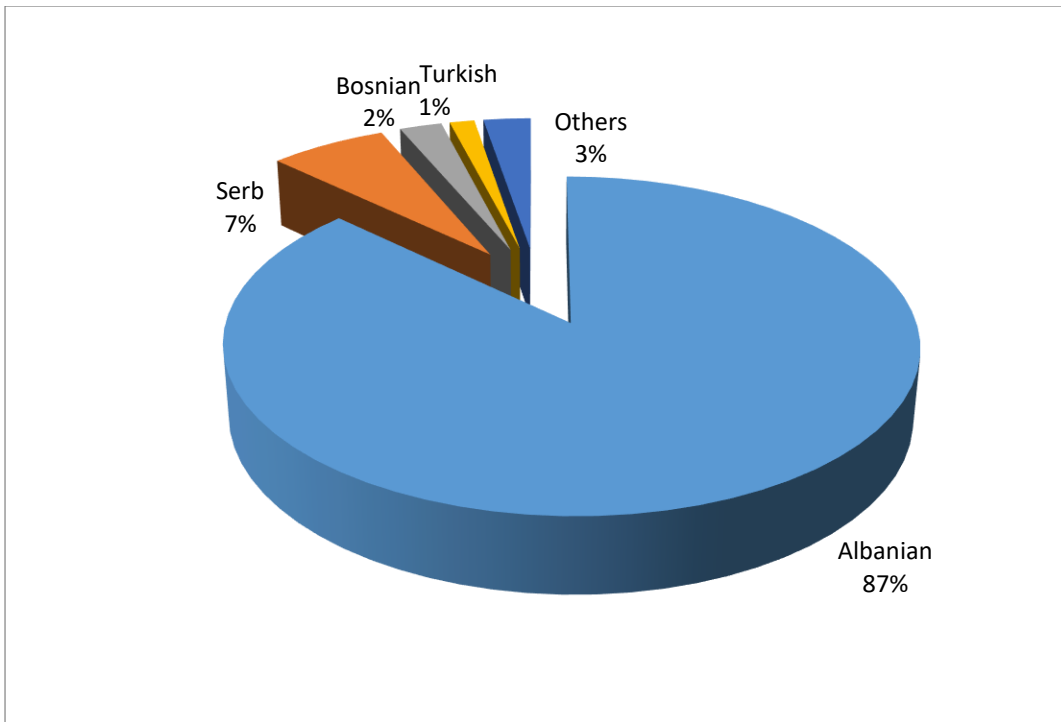


Figure 5: Ethnicity of citizens based on cases opened for investigation

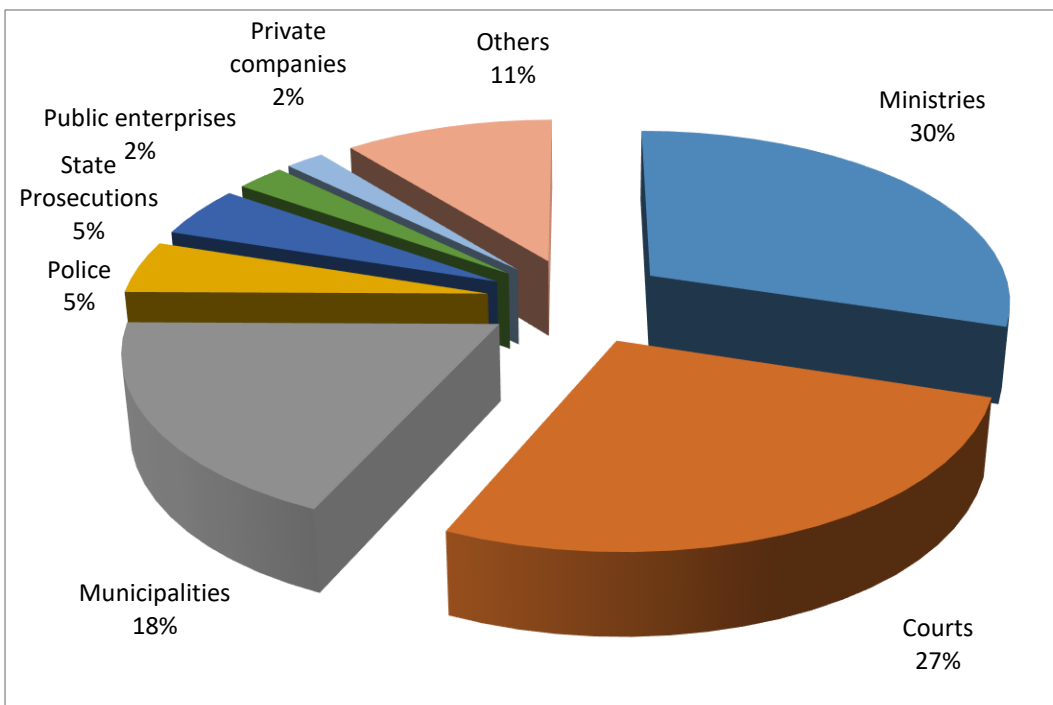


Figure 6: Responsible authorities of cases investigated by the OIK

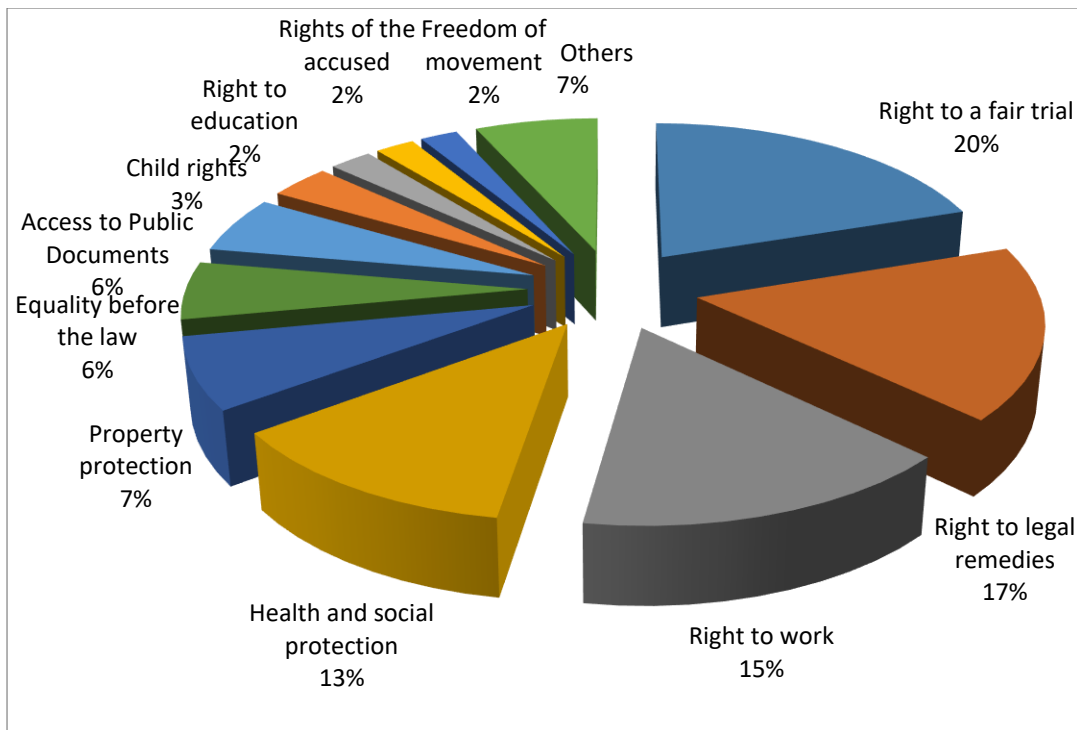


Figure 7: The subject of the investigated cases, based on the rights guaranteed by the Constitution

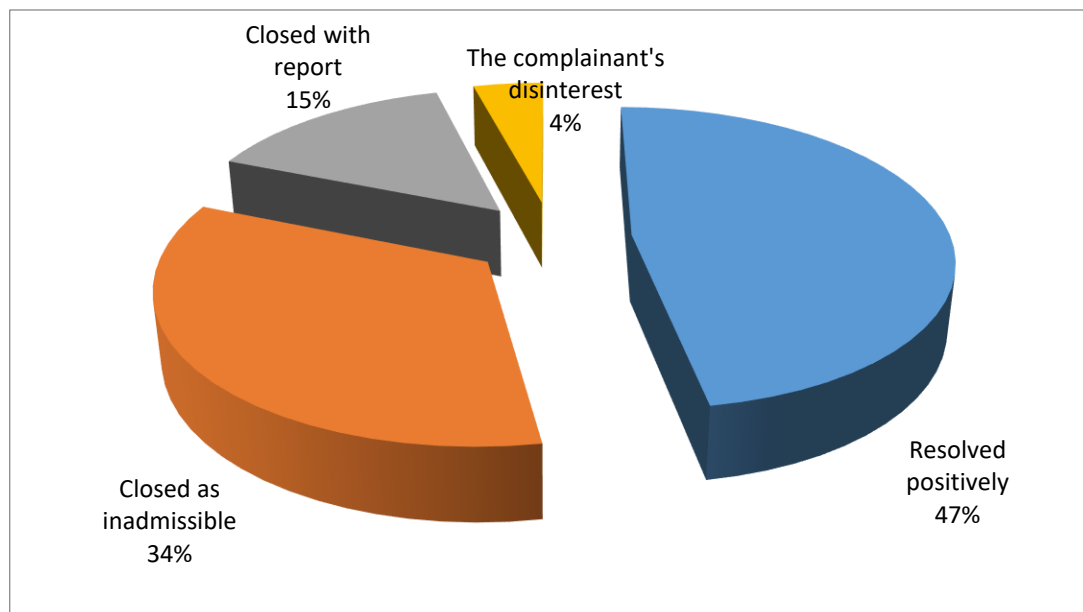


Figure 8: Cases closed by the OIK during 2020 (not only cases of 2020, but also cases registered earlier and closed during this year)

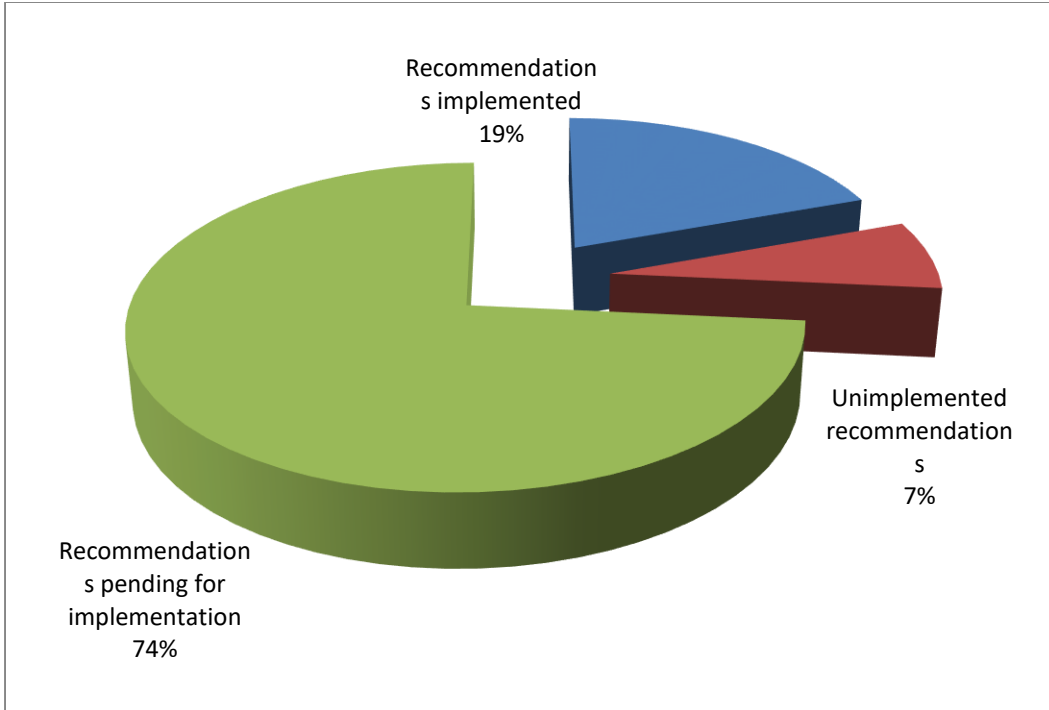


Figure 9: Implementation of the Ombudsperson's recommendations

Statistics on indicator 7 of the Sectoral Reform Contract for Public Administration Reform²⁴⁸

On 7 December, 2017, the Financial Agreement between Kosovo and the European Union on Instrument for Pre-Accession Assistance - IPA 2016, Part Two, for the Public Administration Reform was signed. The maximum contribution of the European Union under this agreement is in the amount of EUR 25.000.000.00.

The overall objective of this agreement: *“to support the administration reform process in Kosovo in order to increase the accountability, transparency and effectiveness of public administration, with a greater focus on the needs of citizens and businesses. This program aims to assist the Government of Kosovo in implementing the strategic package of public administration reform adopted in 2015, specifically focused on improving administration accountability, harmonizing policy development and coordination, introducing modern human resource management, and modernization of consumer oriented public services. The program will also strengthen the administrative capacity needed to develop and implement the EU acquis.”*²⁴⁹

It is noteworthy that in order to increase the level of implementation of the Ombudsperson's recommendations, this issue is included under this agreement through Indicator No. 7, which stipulates that by 2020, the implementation of the Ombudsperson's recommendations by the central level institutions will reach no less than 60%. In 2016, the implementation rate of recommendations addressed to the central level institutions was 16%.

Due to the situation created by the COVID-19 pandemic, the Government of the Republic of Kosovo, respectively the Ministry of Internal Affairs and Public Administration, on March 26, 2020, addressed a letter to the European Union Office in Kosovo, through which it requested that the deadline for the fulfilment of the foreseen indicators to be achieved by the end of 2020 regarding the implementation of the above-mentioned contract, be extended for the same period of 2021.²⁵⁰ This request was reviewed by the European Commission and taking into account the circumstances created, they returned positive responses regarding the achievement of the goals set for 2020, which are postponed to 2021.

However, the OIK, despite the pandemic, has continued with the work for the implementation of its mission, therefore below we will present the state of implementation of indicator no. 7.3.1 and 7.3.2 for 2020:

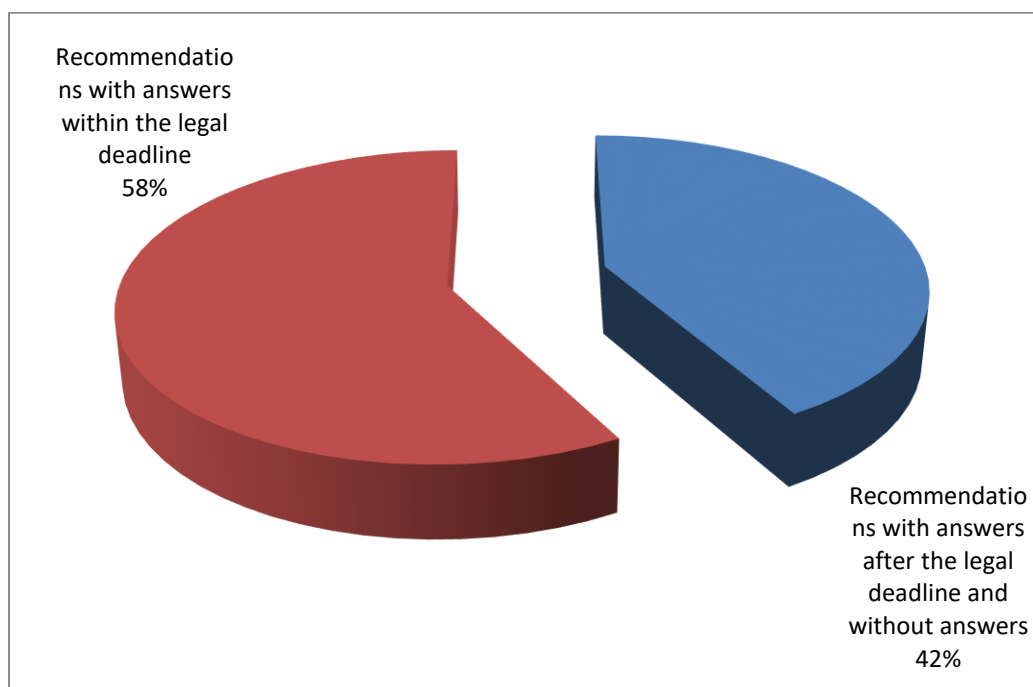
²⁴⁸Financial agreement for IPA 2016 - the second part, between the Republic of Kosovo and the EU.

²⁴⁹Financial agreement for IPA 2016 – the second part, between the Republic of Kosovo and the EU, p. 18.

²⁵⁰Letter dated March 26, 2020, from Mr. Xhelal Svec̆la, Acting Minister of the Ministry of Internal Affairs and Public Administration, addressed to Mrs. Nataliya Apostolova, Head of the European Union Office in Kosovo.

Indicator 7.3.1 requires that at least 95% of central level institutions addressed by the Ombudsperson with recommendations between January 1 and November 30, 2020, have responded with a letter within the legal deadline of 30 days.

During the period from January 1 to November 30, 2020, the Ombudsperson addressed 43 recommendations to central level institutions²⁵¹, of which, for only 25 recommendations, it received a response within the legal deadline of 30 days, defined by Articles 25 and 28 of the Law. no. 5 / L-019 on the Ombudsperson,²⁵² while for 18 other recommendations it did not receive a response or the response arrived outside the legal deadline. Therefore it is concluded that the implementation rate for indicator 7.3.1 is quite low, because the Ombudsperson during the specified period has received a response within the legal deadline of 30 days for only 58% of the recommendations addressed to central level institutions. Therefore, according to these data, indicator 7.3.1 is not met.²⁵³



²⁵¹Central level institutions defined by indicator 7 of the Financial Agreement between the Republic of Kosovo and the European Union; This agreement can be found in the official gazette under the link <https://gzk.rks.gov.net/ActDetail.aspx?ActID=15707>

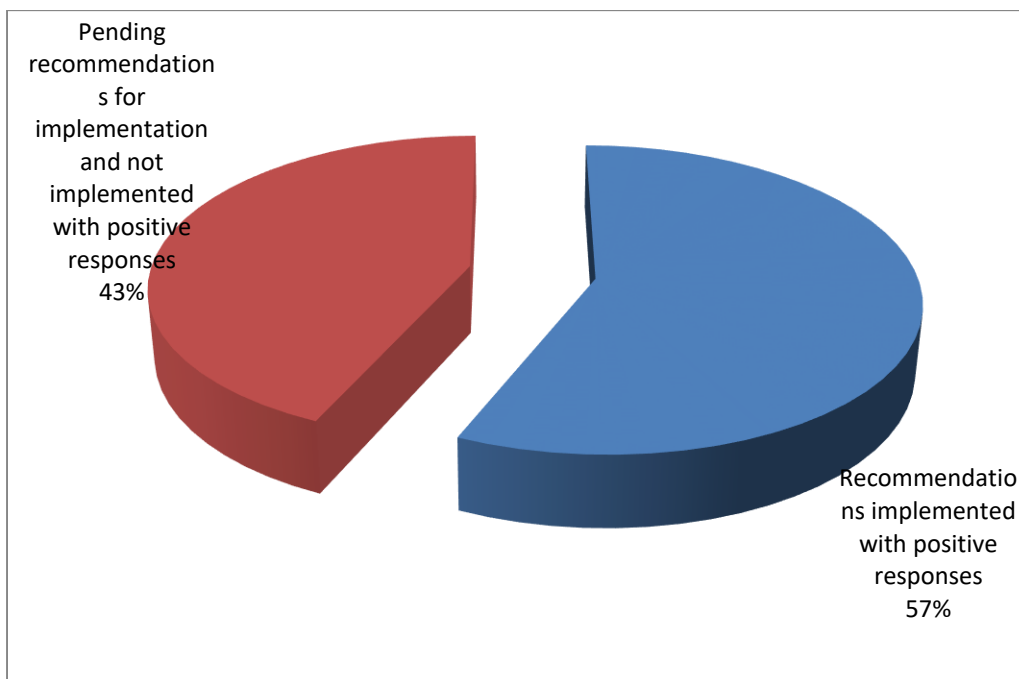
²⁵²<https://www.oik-rks.org/2018/08/20/ligji-per-avokatin-e-popullit-nr-051-019/> accessed on 13/02/2019

²⁵³The calculation method for indicator 7.1.1 is done according to the formula:

$X = \text{number of recommendations with responses from central level institutions received by the Ombudsperson within the legal deadline} / \text{total number of Ombudsperson's recommendations addressed to central level institutions during the specified period} \times 100.$

Indicator 7.3.2 requires that at least 60% of all recommendations addressed to central government institutions, issued in 2019 and 2020, be implemented, to which central level institutions have responded positively.

Referring to indicators 7.3.2, the recommendations addressed during the period 2019 and 2020, for which the OIK has received a positive response or a positive response to the implementation of recommendations, are 143 recommendations, of which 81 have been implemented. The rate of implementation of the Ombudsperson's recommendations, according to this indicator, is 57%,²⁵⁴ so it has not been met due to the absence of a very small percentage.



²⁵⁴The calculation method is done according to the formula defined by indicator 7.3.2:

$X = \frac{\text{number of recommendations addressed to central level institutions during the specified period, for which the responsible institutions have responded positively on the implementation of recommendations, total number of recommendations addressed to central level institutions during the specified period}}{\text{implemented, for which the responsible institutions have returned responses with a positive intention on the implementation of recommendations}} \times 100.$