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

OMBUDSPERSON'S

REPORT

Ex officio no. 577/2021

related to

The rights on Sexual and Reproductive Health

Access to contraceptive information and services, abortion, post-abortion care, and maternal health care

Prishtina, December 29, 2022

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Supported by the United Nations Population Fund (UNFPA), Office in Kosovo

The views expressed in this report are those of the Ombudsperson Institution (OI) and do not necessarily represent the views of UNFPA, the United Nations (UN) or any of the respective UN organizations.

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Content

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List of abbreviations

FMC-	Family Medicine Clinic
OI-	Ombudsperson
KAS -	Kosovo Agency of Statistics
RSRH-	The Rights on Sexual and Reproductive Health
OI-	Ombudsperson Institution
PI-	Pharmaceutical Inspectorate
NIPHK-	National Institute of Public Health of Kosovo
SI-	Sanitary Inspectorate
HI-	Health Inspectorate
PHC-	Primary Health Care
SHC-	Secondary Health Care
THC-	Tertiary Health Care
OGC-	Obstetrics and Gynecology Clinic
CEDAW-	Convention on the Elimination of All Forms of Discrimination against Women
MoH-	Ministry of Health
WHO	World Health Organization
SPMCRH-	Strategic Plan on Maternal, Child and Reproductive Health
MFMC-	Main Family Medicine Center
UCCK-	University Clinical Center of Kosovo
FMC-	Family Medicine Center
UHCSK-	University Hospital and Clinical Service of Kosovo
CGP-	Clinical Guidelines and Protocols
SOP-	Standard Operating Procedures
UNFPA-	United Nations Population Fund

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Introduction

In October 2021, the Ombudsperson Institution (OI) opened an *Ex Officio case no. 577/2021*, as an in-depth **Inquiry** on the Rights on Sexual and Reproductive Health (SRH) in the Republic of Kosovo, whereby this ***Inquiry*** specifically focused on:

- The access to contraceptive information and services.
- The access to abortion and post-abortion care.
- The maternal health care.

The Inquiry represents a continuation of the ***Assessment*** at the country level of the rights on SRH, addressed by OI in 2016[1]. This ***Assessment*** had then identified the progress and obstacles within the framework of seven main issues: *Contraceptive services and information*; Sa*fe abortion; Maternal health*; *HIV/AIDS*; *Inclusive sexual education*; *Violence against women*; C*ancer and reproductive health*, by also keeping cross-sectoral issues within the focus, issues which include the rights and needs of the most vulnerable groups.

The Assessment addressed in 2016 comprised of two essential questions to be answered:

> 1) *To what extent have the laws, policies, regulations and other initiatives of the Government and other authorities fulfilled the obligations regarding the SRH rights in the Republic of Kosovo, according to the Constitution of the Republic of Kosovo?*
>
> *2) What specific actions are required*?"

Based on these two questions, specific gaps were identified that would have to be addressed by a special ***Inquiry*** at the country level, based primarily on the information and testimonies from ***women and girls,***[2]who potentially could have been subject to the violation of the guaranteed rights and freedoms of the SRH.

These identified gaps (*presented in* ***Table 1.*)** have been kept in mind throughout the current ***Inquiry***, which assesses the situation for the years 2019, 2020, 2021 and monitors the progress related to the rights on SRH in the country, on the basis established in the ***Assessment*** addressed in 2016.

[1]Available at: https://oik-rks.org/en/2016/12/08/the-report-sexual-and-reproductive-health-and-rights-in-kosovo-a-reality-beyond-the-law/
[2]Considering the fact that the 18, 19 or 20-year-olds who were interviewed or were part of the focus groups for the purpose of this Inquiry, were teenagers during the period covered by this Inquiry (2019, 2020, 2021), the terms ***women and girls*** is used in this Report. The same terminology is constantly used in publications of this nature by the World Health Organization (WHO).

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Table 1. *Identified gaps in the **Assessment** addressed in 2016, that this **Inquiry** took into account*
• Complete non-implementation of maternal health policies (of the Strategies and Action Plans);
• Necessity of supplementing and amending the laws related to SRH;
• The need for protection against discrimination of vulnerable groups (according to the protected grounds);
• Lack of health data, including their disaggregation, especially the data related to SRH;
• Lack of data on maternal deaths and the causes of these deaths (disaggregated);
• Violation of privacy and confidentiality;
• Irregularities in referral and referral mechanisms;
• Difficulties in providing the services for SRH, especially in rural areas;
• Lack of inter-agency coordination on SRH related issues;
• Difficulties in the functioning of internal complaint mechanisms;
• Difficulties of the Health Inspectorate to exercise the supervisory role it is entitled to;
• Lack of training for health professionals, in addition to the evolution of SRH standards;
• Lack of inclusiveness in the design/development of health policies, with an emphasis on SRH;
• The issue of availability of contraceptive products and access to them;
• Lack of proactive provision of information on family planning and modern contraception;
• Lack of human and administrative capacities for the implementation of strategies and plans;
• Lack of prevention measures for unsafe abortion, provision of safe abortion and post-abortion care;
• Lack of protocols and clinical guidelines for SRH.

The Assessment of 2016 resulted in ***62 recommendations***, which were addressed to the responsible authorities. Out of the total number of recommendations, **27** were considered implemented until December 2018 (*see **Table 2** and the status of implementation of the recommendations from that **Assessment***)

Table 2. ***Assessment** recommendations addressed in 2016 and their **implementation status** as of December 2018*	
Recommendations implemented	**Recommendations not implemented**
The Assembly should formally adopt the Sustainable Development Goals, given their important focus on the RSRH. **(addressed to Parliament)**	Amending the Constitution to include the International Agreement on Economic, Social and Cultural Rights, the Convention on the Rights of Persons with Disabilities and the European Social Charter, to be directly applicable in local legislation in Kosovo. **(addressed to Parliament)**
There should be continued efforts led by the MoH in cooperation with the municipal directorates to improve the functioning of the FMCs, to encourage the population to use these institutions when appropriate. For rural areas, the needs regarding access to the health	The government should monitor and make efforts to ensure the enjoyment of rights and RSRH by persons with disabilities.**(addressed to the Government)**

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system should be improved. The Ministry of Health should develop and implement measures to make health services, especially family medicine centers, friendly to adolescents.**(addressed to MOH)**	
The health inspectorate must be strengthened. The number of inspectors should be increased. The inspectorate must use the protection of human rights from the Constitution of the Republic of Kosovo as a frame of reference for its inspections. (**addressed to MOH)**	The government should increase budget contributions for the health sector by 5% compared to the previous year and for other health-related activities in other sectors. Resources allocated to reproductive health should not be diverted elsewhere. (**addressed to the Government)**
The Ministry of Health should ensure free provision of contraceptives - at least a low-dose combined hormonal contraceptive, an injectable hormonal option; male condoms; an intrauterine device IUD with copper; an emergency contraceptive for the following groups: "1) the poorest and third segment of the population; 2) couples who are below the level of extreme poverty (i.e. 12% of the population); 3) Roma, Ashkali and Egyptian communities; 4) sexually active adolescents aged 15-19; 5) women who suffer domestic violence and those in shelters; 6) young people aged 15-24 living in rural areas; 7) PFS. These should be provided by doctors and gynecologists at the FMC and should be supported by a contraceptive management logistics system and a separate budget line for contraceptives. Efforts should be made to improve the use of FMCs by the population for family planning. **(addressed to MOH**)	The government should continue with the collection of health insurance contributions and the Law on Health Insurance should be implemented. SRHR, including family planning and maternal care, should be included in the basic package of services in this fund. Contraceptives should be covered under the Health Insurance scheme, at least for vulnerable groups as defined by the Ministry of Health. **(addressed to the Government)**
In order to implement AI (Health) 07/2013 on Modern Methods and Instruments for Family Planning, it must be ensured that a regular supply of contraceptives is provided in Family Medicine Centers. Shortage in stocks should be avoided. **(addressed to MOH)**	Ensuring the participation of rights holders in the development of new policies and programs on RSRH. In addition, efforts should be directed towards the participation of vulnerable/marginalized groups: women, adolescents, LGBTI, persons with disabilities, sex workers and Roma, Ashkali and Egyptian communities. **(addressed to the Government)**
Condoms should be widely available at low cost in machines installed in convenient locations that are accessible and provide privacy for consumers. **(addressed to MoH)**	The Law on Termination of Pregnancy should be amended: *a. The government must ensure that sexual and reproductive health services, including abortion services, meet the needs of all adolescents. With this in mind, there should be no age limit for abortion, in other words, even minors under the age of 16 should be offered abortion services.* *b. Although adolescents should be encouraged to talk to their parents or other adults about pregnancy and abortion in accordance with their best interests and capacities, the Government should consider allowing minors to perform safe abortions without parental consent. The decision about abortion and whether*

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	*parents should be informed about pregnancy and abortion should be left to adolescents. The government should also work to ensure that adolescent girls make autonomous and informed decisions about reproductive health, including abortion. The definition of "abortion" should be amended in the law and AI 09/11 to remove "by force" from the existing definition "termination of pregnancy by force".***(addressed to the Government)**
Contraceptives should be kept on the Essential Medicines List. **(addressed to MOH)**	After the withdrawal of the Global Fund from Kosovo in 2017, the institutions must determine the budget for the implementation of the HIV strategy. (**addressed to the Government**)
In accordance with AI (on Health) 07/2013 Modern Methods and Instruments on Family Planning, the Ministry of Health must ensure that health professionals in the FMC professionally and proactively provide information on family planning, as well as ensure their approach to users is respectful and dignified, preserving the confidentiality and privacy of patients in all cases. Considering this, the Ministry of Health should: *b. implement strategies to improve access to information in family medicine centers, such as the provision of information leaflets on contraceptive methods, their use and their benefits and effects, as well as patient support groups.***(addressed to MoH)**	Greater efforts are needed to address the stigmatization and discrimination of population groups such as MSM and sex workers. **(addressed to the Government)**
Vacuum aspiration and dilatation and evacuation should replace dilatation and sharp curettage for all surgical abortions. Vacuum aspiration should be introduced for surgical abortion for pregnancies up to 12-14 weeks of gestation. Also, medical abortion with the mifepristone-misoprostol combination should be considered in compliance with WHO guidelines.**(addressed to MOH)**	There is a growing need to elaborate on the rights of survivors to "health and social services" under Article 27 of the Law on Protection Against Domestic Violence. Medical treatment, psychological support, housing, rehabilitation and re-integration of survivors should be clearly defined and there should be a clear division of responsibilities for central and local institutions to ensure that services are provided. **(addressed to the Government)**
The government should encourage the registration of packaged products of mifepristone and misoprostol and then evaluate the possibilities for addressing the illegal sale of mifepristone and misoprostol without a prescription. At the very least, unregistered products must be tested for quality. (**addressed to MOH**)	The government should consider revising the Law on Protection Against Domestic Violence to ensure that protection orders are not time-limited, but can be issued indefinitely in cases where there is a risk to survivors. At the same time, language in the law should be modified to refer to “alleged perpetrators” rather than “perpetrators” when appropriate, to avoid pre-trial guilt bias. (**addressed to the Government**)
The system of reviewing maternal deaths and "near misses" (potential cases of death, injuries, harmss) should be implemented. The methodology should be consistent with WHO's "Beyond the Numbers". **(addressed to MoH**)	The government should develop infrastructure, grow human resources and develop professional capacities in the context of providing support services to survivors. Funding for survivors has been very limited and must be increased to make this happen. (**addressed to the Government)**

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Clinical guidelines and protocols related to maternal health should be developed and implemented. **(addressed to MOH)**	Efforts should be made to improve the cooperation of institutions that work with survivors of violence (police, health professionals, shelters, social services, courts). (**addressed to the Government**)
Efforts should be made to encourage women to use maternity-related services at FMC (addressing barriers such as transport costs. A voucher scheme could be considered to cater to women who are unable to pay the costs). **(addressed to MOH)**	The government should allocate adequate resources to collect data on sexual violence against women and girls affected by the war. (**addressed to the Government**)
The Ministry of Health should promote the routine use of the Robson Classification to guide decisions about caesarean section and to monitor whether clinics use these criteria in practice. UNFPA should support the provision of information to the public on the appropriate use and complications that may arise from caesarean sections. (**addressed to MOH**)	The government must take effective measures to address the issue of women sexually abused during war by seeking prosecution of crimes related to sexual violence during war in accordance with international law. (**addressed to the Government**)
MoH should provide ARV in a timely manner. Therefore, HIV/AIDS medications should be classified differently to overcome lengthy procurement procedures. (**addressed to MoH**)	The government must ensure that the Commission on the Recognition and Verification of the Status of Victims of Sexual Violence is fully operational and that the current legal framework is implemented. (**addressed to the Government**)
MoH to complete the legal and regulatory framework and adopt action plans to respond to HIV/AIDS for effective and coordinated approaches in addressing relevant issues, including special attention to vulnerable groups: sex workers, MSM, adolescents and youth, injecting drug users (IDUs) and to prevent mother-to-child transmission. **(addressed to MoH**)	The government should provide support for rehabilitation and treatment of psychological trauma, easy access to education, health care and services, and combat stigmatization in society for all women affected by the war. (**addressed to the Government**)
The Ministry of Health should expand specific preventive services, including access to information, condoms, Voluntary Counseling and Testing (VCT), for vulnerable groups: MSM, sex workers, IDUs, adolescents and young people. These groups should be included in the design and implementation of these services. (**addressed to MoH**)	Resources should be provided to the National Cancer Control Board and the National Cancer Control Program 2014-2020. **(addressed to the Government)**
The screening program for cervical cancer in the municipality of Prishtina should be supported and distributed throughout the country, along with treatment as required in line with international standards. Breast cancer screening should also be introduced. In both cases, this will require funding, training and development of institutions as identified in the latest analysis of the state of cervical and breast cancer in Kosovo. (**addressed to MOH)**	Constitutional guarantees and other legal guarantees of equality and non-discrimination must be respected, protected and fulfilled by the Government and all other stakeholders. (**addressed to the Government**)
MoH should do more in the promotion and use of VTC centers.**(addressed to MOH)**	The Government's strategy should pay special attention to those groups that are less informed and have less access, as identified by the MICS report and other reliable data. This includes adolescents and young

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	adults, people with lower levels of education, populations living in rural areas, and sex workers and men who have sex with men (MSM) (see Chapter 3, section 7). Attention should also be paid to access to contraceptives for persons with disabilities. These groups should be invited to participate in the development and implementation of strategies, not only because it is their human right, but because it also serves to increase the effectiveness of these strategies. (**addressed to the Government**)
The training of health professionals working in the field of case reporting under the National Cancer Registry should be done. (**addressed to MoH**)	In order to achieve the highest standards of health, the Government should address the problem of abortion that is performed clandestinely in unsafe conditions by private institutions not authorized to perform the procedure. Women's health rights include the right to good and safe health services. (**addressed to the Government)**
MEST must ensure the development and implementation of strategies and action plans for age-appropriate sex education, including in schools and for adolescents and youth outside schools. **(addressed to MEST)**	The government must conduct a review of abortion services and an inquiry focusing on reform in the public and private sectors to determine the best options for improving access to, as well as the quality of, legal abortion. Public sector abortion providers should improve their services including improving respect for users' rights, as well as providing comprehensive care, including accurate information, non-directive counseling if requested by the woman, abortion services without delay, and contraceptive services after abortion, to help prevent future unplanned pregnancies. At the same time, the government should consider whether it is appropriate to authorize and regulate the number of private clinics that perform abortion services, given that they meet the safety criteria and standards defined by the WHO, and AI 09/11 is properly regulated. The government should also consider expanding the provision of abortion services to non-specialist providers in accordance with WHO guidelines. (**addressed to the Government**)
MEST assures that all teachers who will be involved in inclusive sex education will be trained in providing age-appropriate, inclusive and human rights-based education. If required, human rights-based training materials should be developed. (**addressed to MEST**)	The Ministry of Health should conduct a review of the main causes, manifestations and consequences of the lack of respect for privacy and confidentiality in SRH facilities, including contraceptive services, abortion, post-abortion care, maternal health care and voluntary testing and counseling (VTC) for STIs, taking into account formal data protection and procedures, as well as attitudes and actions of health professionals on these issues. Key issue - raising awareness and training health professionals on these issues and clear procedures when these duties are violated.

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	(addressed to MoH)
Inclusive sex education for children, adolescents and young people outside of schools should be built on the existing infrastructure, including CSO working in this field. Standards on inclusive sex education should be developed with the participation of young people. (**addressed to MEST**)	MoH should establish an inter-agency coordinating body for SRH to improve coordination and communication between national institutions and other national and municipal bodies. Human rights should be explicitly included in the terms of reference. (**addressed to MoH)**
Adolescents and young people should participate in the design of inclusive sex education in and out of schools and in the delivery of this education through peer education initiatives. **(addressed to MEST)**	Efforts should be made for SISH to include comprehensive and reliable data, including certain issues of RSRH, as well as maternal health and abortion. The recording of maternal deaths should be improved, including the expansion of reporting criteria by emergency obstetric facilities and birth centers in all places where they occur. The Ministry of Health should try to ensure that abortion service providers are in compliance with Article 21 of the Law on Termination of Pregnancy, which states that each health institution is obliged to report statistical data on termination of pregnancies. Data collection on gender-based violence needs to be improved. Data should be collected and disaggregated according to the nature of discrimination such as gender, ethnicity, age, social and economic status (level of education, income etc.) and disabilities. The *Assessment* found particularly limited information on persons with disabilities. Greater efforts are needed for such data. (**addressed to MoH**)
A new National Strategy and Action Plan against Violence against Women should be drafted and implemented, supported by a real and detailed budget. The responsible institutions in the government and local authorities should be clearly identified, as well as an institution with responsibility for implementation on the ground. Space must be created for partnerships and support from non-state actors, cooperation mechanisms must be specified, not giving them formal responsibilities. Adequate funding is needed for implementation. (**addressed to MoJ**)	The Ministry of Health should increase the awareness of the population and improve their approach to accountability mechanisms on RSRH, including courts, OI and administrative bodies. Attention should be paid to ensuring access for vulnerable groups such as adolescents. (**addressed to MoH**)
Further efforts in awareness raising on domestic violence and the law is required on several fronts. (**addressed to MoJ**)	MoH in cooperation with UNFPA should provide training on RSRH for the main policymakers in MoH. (**addressed to MoH**)
The Agency for Gender Equality should lead awareness-raising on the Law on Protection from Domestic Violence in key institutions. (**addressed to AGE**)	**MoH** contraceptives should be procured, using third-party procurement by UNFPA. **(addressed to MoH)**
	In accordance with AI (Health) 07/2013 on Modern Methods and Instruments on Family Planning, the Ministry of Health must ensure that health professionals in the Ministry of Health professionally and proactively provide information on family planning and their

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	approach to applicants is respectful and dignified, and the confidentiality and privacy of patients is maintained in all cases, by: *a. Providing ongoing training for doctors, nurses and midwives in providing adequate information about contraceptives, including eliminating prejudices and providing family planning counseling to patients, so that they can make independent and informed choices about contraceptive use.* *c. The Health Inspectorate and service quality coordinators within public institutions monitor/review the quality and acceptability of family planning services*. (**addressed to MoH)**
	The Committee for Health, Labor and Social Welfare and the Committee for Education, Culture, Youth, Sports, Public Administration, Local Government and Media must be held responsible for the MoH and MEST, for the smooth running of the RSRH within the policies and action plans, as well as the development and implementation of these policies and strategies. (**addressed to the Parliamentary Committees**)
	It must be ensured that age-appropriate and inclusive sex education is offered as a regular subject for all children and adolescents in schools. This should be an explicit commitment in the framework of the program plan for the different levels of education and be reflected in the next strategic plan. In line with international standards, inclusive sex education should cover the following topics: growth and development, sexual anatomy and physiology; reproduction, contraception, pregnancy and childbirth, HIV/AIDS; STI, family life and human relations; culture and sexuality, gender roles; sexual behavior; sexual diversity; gender-based violence; and harmful practices. Age-appropriate teaching materials on inclusive sex education should be developed. (**addressed to MEST**)
	It is necessary to educate and raise awareness among the population about gender-based and domestic violence in all its forms, including the Roma, Ashkali and Egyptian populations. (**addressed to AGE**)
General recommendations	
All responsible authorities in the Republic of Kosovo must ensure the implementation of laws and policies for RSRH.	
The accountability of all respective and responsible public authorities at the central and local level, in particular, the police, prosecutors and judges, must be improved for their performance in dealing with cases of domestic violence and their conformity with international and local standards and protocols, including immediate action in addressing cases. Sanctions should be applied if compliance with the law fails.	
The responsible authorities should support the implementation of by-laws with adequate funds and infrastructure.	

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Mechanisms for the enforcement of the age of marriage must be developed and the police and prosecutors must enforce the law in cases where necessary.

The state has not paid proper attention nor applied the necessary commitment to address the recommendations and to remove the practical barriers that exist, so that women and girls can enjoy the rights on SRH systematically, fully and without discrimination.

As in the 2016 ***Assessment***, this ***Inquiry*** reaffirms that the rights on SRH in Kosovo (their enjoyment or violation) cannot be perceived, nor understood, as disconnected from the socio-economic and cultural-historical complexity in the country. The consequences of decades of damage and neglect of health and the accompanying infrastructure during a very long period before the war of 1998/1999 in Kosovo, have also had consequences in the dynamics of recovery after the war, but also after the statehood/state formation.

From the general perspective, it is evident that Kosovo has rebuilt a health system and has a relatively good legal framework in the field of SRH rights, which integrates within itself the spirit of a series of instruments and international agreements on human rights, that are directly applicable in our country.

However, the dynamics of general changes and the evolution of human rights and freedoms in established concepts make it necessary to supervise the compliance of the normative framework and to supervise the implementation and respect of the guaranteed rights, beyond the legislation.

While the core of the ***Assessment*** addressed in 2016 was the review of normative guarantees and the standards established upon them, the present ***Inquiry*** aimed to delve into the depth of the problem, considering the information and the testimonies of women and girls as a primary source of assertions and findings, to scan the situation regarding the compliance with SRH rights.

In addition to the voice of *women and girls*, the ***Inquiry*** has also evaluated the statements and contribution of civil society organizations which extend their activity in the community and are close to women and girls and the difficulties they face.

During this ***Inquiry***, questions were also addressed to the relevant authorities, who design and implement health policies and to those who provide health services, at the central and local level, so that the reflection of the situation is as complete as possible, taking into account all parties.

The focus on *access to contraceptive information and services*, *access to abortion and post-abortion care and maternal health care* has taken into account the interrelation and interdependence of these issues, within the framework of the SRH rights, but also the indivisibility, non-alienation and universality, in the general context of human rights and freedoms.[3]

[3]The OI has already addressed to the responsible authorities other reports, initiated by official duty, but related to the issues addressed in the 2016 Assessment: Report with Ex Officio recommendations - Case no. 305/2019 regarding the treatment of people with HIV and AIDS in Kosovo https://www.oik-rks.org/wp-content/uploads/2019/05/SHQ-Raport-me-Rekomandime-Ex.-Officio-nr.305-2019-lighur-trajtimin-e-personave-me -HIV-AIDS-n%C3%AB-Kosov%C3%AB-min_compressed.pdf; Report with Ex Officio recommendations - Case no. 698/2020 regarding access to health care services for persons affected by the Human Immunodeficiency Virus (HIV) and Tuberculosis (TB), during the period of the COVID-19 pandemic in Kosovo:https://www.oik-rks.org/wp-content/uploads/2021/01/Raport-me-rekomandime-Ex-Officio-698-2020.pdf The Inquiry was supported by the Community Development Fund (CDF), through a grant from the Global Fund to Fight AIDS, Tuberculosis and Malaria.

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Methodology

The *methodology* of this ***Inquiry*** was drafted based on the Guideline in support of National Institutions for Human Rights (©UNFPA, 2015) and with the support of the UNFPA Office in Kosovo,[4] who just as in the ***Assessment*** addressed in 2016, had an active supporting role in the realization process of the ***Inquiry***, including budgetary support, professional contribution and constant readiness to successfully carry out this complex and multidimensional process.

Based on the requirements of the *methodology*, the ***Inquiry*** was conducted by the OI, led by a research panel, with internal OI staff and supported by an advisory group, in the capacity of external experts, with knowledge and experience in the issues that have been the focus of the ***Inquiry***.

In line with the work principles of the Ombudsperson (OI)[5], the *working methodology for this inquiry was based on non-discrimination, gender sensitivity, good governance, transparency, inclusiveness, confidentiality, as well as the principle do-no-harm*.[6]

The Inquiry has been extended to rural and urban areas, in the seven regions of the country and is based on direct testimonies from *women and girls*, whose rights related to SRH have potentially been violated. Also, during the ***Inquiry***, special attention was paid to the needs of special vulnerable groups: persons with disabilities, ethnic communities, persons with marginalized economic and social status.

Although women or girls held in detention centers and prisons, those in mental health homes, LGBTQI+ people, drug users, sexually exploited women and girls, people with infertility and IVF-related issues have not been disregarded against the enjoyment and respect of the SRH rights of these categories, it has been impossible to cover them for the period within which this ***Inquiry*** was planned to take place.

During the inquiry process, the OI has observed that the way the system operates in the country requires a more focused approach to the characteristics that these categories comprise of independently. However, the attention that these categories should get from the relevant authorities is essential, regarding the enjoyment of SRH rights, according to their particularities. For the OI itself, it remains an obligation to deal with them in specific inquiries of this nature.

During this ***Inquiry***, gender, social and cultural norms and their influence on attitudes, behaviors, in general and also on issues related to the governance (data collection, special budget lines, accountability and participation) were taken into account.

For the purpose of this ***Inquiry***, inclusion and public dimension components following the

[4]The United Nations Population Fund (UNFPA) is the United Nations agency for sexual and reproductive health whose mission is to help for a world where every pregnancy is desirable, every birth is safe and where the potential of each young person is fulfilled. The UNFPA office in Kosovo has been advocating since 1999 for the reproductive health and rights of every woman, man and child, individually and as a family, with the commitment to create a world where no mother dies during childbirth, where every pregnancy is desired and every individual can enjoy a life of health, dignity and opportunity. Additionally, see:https://kosovo.unfpa.org/en/node/9285 (accessed on 24.11.2022).

[5]Law no. 05/L-019 on the Ombudsperson, Article 3 and Article 16, paragraph 4, see in: https://gzk.rks-gov.net/ActDetail.aspx?ActID=10922 (10.11.2022).

[6]The working methodology for the realization of this Inquiry, developed by UNFPA, part B. *The principles underlying the national Inquiry*.

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Methodology and Protocols[7], have had three main phases of development[8]:

In the first phase of the ***Inquiry***, the local legal framework and relevant international instruments and SRH standards applicable in Kosovo and the structure of the health system related to the rights on SRH were analyzed.

In the second phase, the focus was on information and contacts with the target groups. At this phase, a meeting/roundtable was held[9] with some of the non-governmental organizations of this profile, to create a roadmap regarding the scope of the ***Inquiry*** and to establish the necessary contacts with *women or girls* who could potentially provide experiences regarding SRH rights and their respect by the relevant institutions.

Also, at this phase, communication with the public has been intensified through official communication channels and websites[10] of OI and UNFPA, social networks, informative meetings with profile NGOs or health professionals or professionals from other fields, who, directly or indirectly, have knowledge or information on SRH.

This phase includes the organization of two cycles of focus groups in the 7 regions of the country, with participants including 164 *women and girls*, aged over 18 years old (see *Figure 1*), from different communities (see *Figure 2*), from rural and urban areas (see *Figure 3*), with different educational backgrounds (see *Figure 4*).

Fig.1. Age of participants

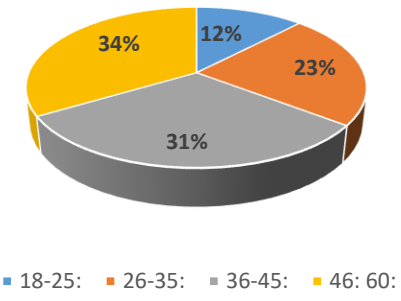
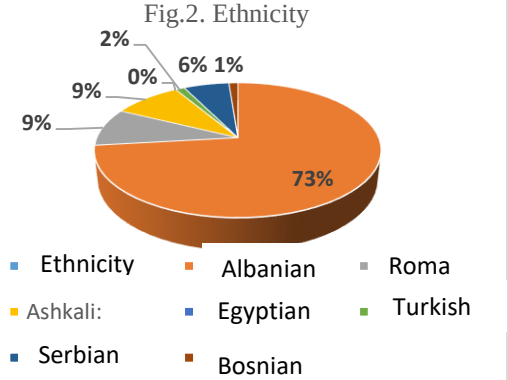


Fig.2. Ethnicity



[7]Protocol for focus group discussions (FGD); Protocol for individual interviews; Protocol on the composition and identification of respondents; Protocol on Written and Other Submissions developed by UNFPA.
[8]The working methodology of this Inquiry, developed by UNFPA, Part V. Collection of evidence and A. Modalities for the collection of evidence.
[9]On May 6, 2022, Roundtable with NGOs, organized by the Ombudsperson Institution, on the topic: "Sexual and reproductive health". In addition to the OI, the head of the UNFPA Office in Kosovo and the NGO "SIT"; NGO "YMCA"; NGO "BLSF"; and RrogRAEK Network also participated.
[10] https://oik-rks.org/2021/11/24/avokati-i-popullit-organizon-fokus-grupet-perkitazi-me-Hetimin-e-gjithshem-per-shendetin-riprodhues/ https://oik-rks.org/2022/04/19/avokati-i-popullit-zhdon-me- Inquiry -e-pergjitshem-per-shendetin-riprodhues/ https://oik-rks.org/2022/06/15/avokati-i-popullit-organizon-roundin-e-dyte-te-fokus-grupeve-perkitazi-me-Etimin-e-gjithshem-per-shendetin-reproductive/ https://oik-rks.org/2022/09/30/

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Fig.3. Residence

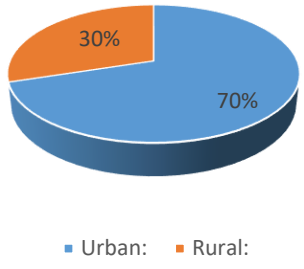
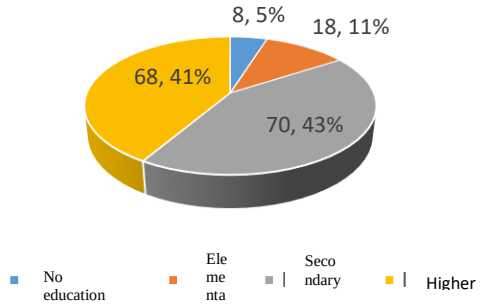


Fig.4. Level of Education



The first cycle of focus groups was held in the main centers of the regions, while the second cycle targeted smaller cities in the respective regions.[11] Protocol for focus group discussions[12] requested that each focus group has 8-12 people.[13] In the focus groups held, on average, there were 12 participants.

Between two cycles of focus groups, based on the requirements of the Methodology and the Protocol for individual interviews[14], face-to-face interviews were conducted to obtain direct evidence of possible violations of the SRH rights.

The contacts were mainly obtained through NGOs, which provided information about the areas where *women and girls* face difficulties in accessing SRH services, while the interviewing of *women and girls* was done without warning, and the selection of the location was concentrated mainly in rural areas and geographically remote areas (as the focus groups held were dominated by the participation of *women and girls* from urban areas), while 55% of the interviewees were from rural areas, and 45% from urban areas.

A total of 140 *women and girls* were interviewed (age of interviewees, in *Figure 5*, ethnicity, in *Figure 6*, place of residence (rural/urban), in *Figure 7*, level of education, in *Figure 8*).

[11]The first focus groups were held in this order: Prishtina, Ferizaj, Gjakova, Prizren, Peja, Gjilan and Mitrovica, on the following dates: November 26; November 30; December 3; December 6, December 7, December 8 and December 9, 2021. The second focus groups were held in this order: Deçan, Kamenica, Kaçanik, Skenderaj, Graçanica, Suhareka, Gjakova, on the: June 17; June 20; June 22; June 23, June 24, June 27 and June 29, 2022.
[12]Protocol for Focus Group Discussions (FGD) – UNFPA.
[13]Ibid., Part B. Composition and Recruitment.
[14]Protocol for individual interviews and Composition and identification of respondents-Methodology on the Inquiry of SRH issues, UNFPA.

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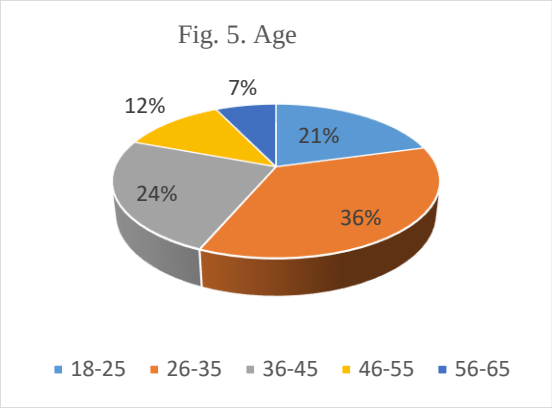

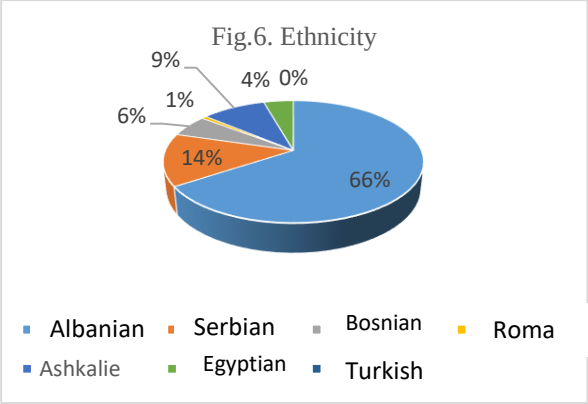

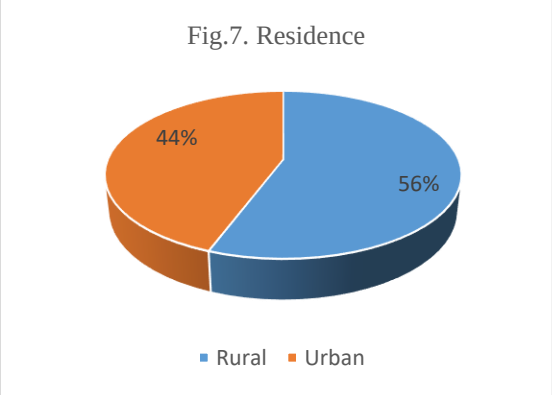

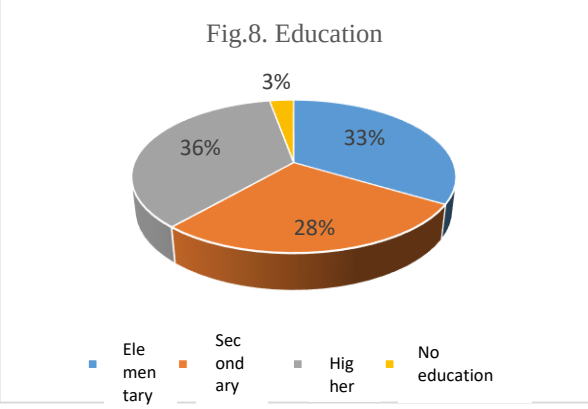

The data was also collected through meetings and interviews with representatives of 35 NGOs, which develop activities related to SRH throughout the whole territory of Kosovo.[15]

In the third phase, the work conducted was on the collection of data and information through inter-agency communication (direct meetings or official letters addressed to policy-making, law-enforcing authorities and local authorities responsible for providing health services in the field of SRH).[16] At this stage, a call was launched through the public broadcaster,[17] on the official website of the OI and on social networks, for public hearings. The call was open to anyone who could provide evidence or information regarding the eventual violation of SRH rights. These public hearings were organized in seven main regions of the country.[18]

During the ***Inquiry*** process, four workshops were held.[19] In the first workshop[20], the initial materials were treated: *Methodology*, topics in focus and expectations from the ***Inquiry***. In the

[15]Meetings and interviews with NGOs took place in the period June - July 2022. You can find the list of interviewed NGOs in Appendix 2.
[16]Ministry of Health, University Hospital and Clinic Service of Kosovo, Health Inspectorate, Department of Health in Prisons, National Institute of Public Health, Kosovo Agency of Statistics, 29 MFMC at country level and 9 Municipal directorates for Health and Social Welfare. The communication developed with the responsible institutions took place in the period March-November 2022. You can find the list of authorities which the letters were addressed to, in Appendix 1.
[17]The video call was broadcasted on RTK from October 11-15, 2022.
[18]On October 3, 2022 in Gjakova, on October 5, 2022 in Gjilan, on October 6 in Pristina, on October 7 in Peja, on October 10, 2022 in Prizren, on October 11, 2022 in Ferizaj, on October 12, 2022 in Mitrovica.
[19]On May 6, 2022, Round table with NGOs, organized by the Ombudsperson Institution, on the topic: "Sexual and reproductive health". On June 30 and July 1, 2022, a workshop was held for staff engaged in the Inquiry, the research panel and UNFPA staff.
[20]The first, initial workshop was held in Pristina, July 2, 2021.

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second workshop,[21] following a joint meeting between the research panel, the advisory group, the OI officials engaged in the ***Inquiry*** and the analyst of the Program for Sexual and Reproductive Health in UNFPA Office in Kosovo, the initial draft of the ***Inquiry*** was reviewed. The third workshop[22] dealt with the collected material and the findings and conclusions from the process, throughout all phases of the ***Inquiry***. Whereas, the fourth workshop[23] focused on verification, through which the Report was treated in its entirety, including the recommendations. Some gaps or remarks identified in this workshop have been completed and further corrected by the hired advisers and the coordinator of the process of this ***Inquiry***, until the final submission of the Report.

Difficulties during the *Inquiry* process

Considering that *women and girls* have been the basic source of information regarding the respect and enjoyment of the rights on SRH, establishing communication with them has been necessary, but it has been accompanied by a series of difficulties.

The local context (small country, where people know each other and are often relatives), the socio-cultural context (the taboo to talk about issues that are considered shameful to discuss with others), have been issues of concern from the beginning to the end of the ***Inquiry***.

The non-response of the relevant health directorates in the municipalities: Northern Mitrovica, Graçanica, Leposaviq, Zubin Potok, Ranillug, in the letters sent to them by the OI, has made it impossible to review the state of SRH service provision for *women and girls* in the municipalities in question.

The non-cooperation of the Kosovo Agency of Statistics (KAS), which has not responded at all to the letter addressed by the OI, has been a matter of concern for the OI. This has left this ***Inquiry*** lacking in terms of health data from the central and competent institution for the collection, processing and reporting of general statistical data at the country level.

OI **draws attention** to the fact that the Constitution clearly defines as follows: "*Every body, institution or other authority, which exercises legitimate power in the Republic of Kosovo, is obliged to respond to the requests of the Ombudsperson and submit all documents and the information required in accordance with the law.*"[24] Law no. 05/L-019 on Ombudsperson also specifies that all authorities have the obligation to respond to the OI in its requests for conducting inquiries.[25] In addition, failure to respond to the OI's letter is considered a refusal to cooperate and "*constitutes the reason for Ombudsperson to request from the competent body the initiation of the administrative procedure, including the undertaking of the disciplinary measures, up to dismissal from work or civil service."*[26]

The refusal to cooperate entitles the OI to request from the competent prosecutor's office the

[21]The second workshop was held in Prishtina, on June 30 - July 1, 2022.
[22]The third workshop was held in Prizren, on November 4-6, 2022.
[23]The fourth, validating workshop, was held in Prizren, on December 1-4, 2022.
[24]Constitution of the Republic of Kosovo, Article 132.
[25]Law no. 05/L-019 on the Ombudsperson, article 25 [Obligation to cooperate and consequences of refusal], paragraph 1.
[26]Ibid., Article 25, paragraph 2.

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initiation of the legal procedure for obstruction of performance of official duty.[27]

Other challenging difficulties regarding communication with the relevant line of authorities includes the incomplete, contradictory answers, different from what was asked, confusing in some cases, or questions for which they did not provide any information at all and lacking a justification for such non-response.

Another barrier in conducting the ***Inquiry*** has been the dysfunction of the health system in the country (*see the tables of difficulties, based on the answers received by the MFMCs and the relevant directorates of health (in the municipalities where the MFMCs do not function), as well as from UHCSK, for SHC and THC institutions*).

An obstacle for establishing contacts with health care institutions at the local level has been the lack of webpages or incomplete data where there was such (*with the exception of the Main Family Medicine Center in Prishtina, which has a webpage and up-to-date information, including contacts*).

When the ***Inquiry*** began, Kosovo still had restrictive COVID-19 measures for group meetings in closed environments, therefore the meetings with *women and girls (focus groups, interviews*) have been delayed for several weeks, from preliminary planning.

Also, the holding of public hearings has been postponed for several weeks, because in the period planned to be held, there was a strike by the administration employees in the municipalities. This has presented an obstacle to the organization of public hearings, as it was initially foreseen.

Despite the difficulties, the ***Inquiry*** has resulted in a large number of findings, the signals for which were already given in the ***Assessment*** addressed in 2016. The unchanged situation for many of the issues identified as concerning since then is worrying, and requires will and real institutional commitment to finding solutions.

[27] Ibid., article 25, paragraph 3.

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Chapter I

Mandate and competencies of the Ombudsperson Institution

The mandate of the OI is determined by the Constitution of the Republic of Kosovo and by Law no. 05/L-019 on Ombudsperson. According to this mandate, the OI accepts and investigates complaints from any person, inside or outside the country, who claim that their rights and freedoms have been violated by the country's public authorities.

Independence in the exercise of duties and non-acceptance of instructions or interference from anyone in the exercise of the mandate, is a distinguishing feature of the OI.[28] The public authorities are obliged to respond to the requests of the OI and submit all the documents and information requested in accordance with the law.[29]

In its work, the OI is guided by the principles of impartiality, independence, supremacy of human rights, confidentiality and professionalism, as well as organizational, administrative and financial independence for the realization of the tasks defined by the Constitution and by law.[30]

Constitutional and legal powers and responsibilities of the OI:

- "*Supervises and protects the rights and freedoms of individuals from illegal and irregular acts or ommisions of public authorities (Article 132, paragraph 1, of the Constitution*);
- *provides recommendations and proposes measures, if it notices violations of human rights and freedoms by public administration bodies and other state bodies (Article 135, paragraph 3, of the Constitution);*
- *draws attention to cases when the institutions violate human rights and makes recommendations to stop such cases, and when necessary, expresses his/her opinion on attitudes and reactions of the relevant institutions relating to such cases (Article 18, paragraph 1, sub-paragraph 1.2, of Law on Ombudsperson);*
- *makes 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 (Article 18, paragraph 1, sub-paragraph 1.5, of Law on Ombudsperson);*
- *publishes notifications, opinions, recommendations, proposals and his/her own reports; (Article 18, paragraph 1, sub-paragraph 1.6, of Law on Ombudsperson).*"

OI also conducts ***Inquiries*** on their own initiative (Ex Officio) if the evidence, facts, findings or knowledge gained from the means of public information, or from other sources, provide a basis for the violation of human rights.

If the OI, while conducting inquiries related to human rights issues, notices that there are elements

[28]Constitution of the Republic of Kosovo, article 132, paragraph 2.
[29]Ibid., article 132, paragraph 3.
[30]Law no. 05/L-019 on the Ombudsperson, Article 3.

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of a criminal offense, it addresses the case to the competent bodies.

OI also has a role as an *Amicus Curiae* in judicial processes related to human rights, issues of equality and protection from discrimination.

OI does not intervene in cases and other judicial procedures, except in cases of delays in judicial procedures. It can also provide general recommendations for the functioning of the judicial system.

Moreover, the OI can initiate cases in the Constitutional Court of the Republic of Kosovo, in accordance with the Constitution and the Law on the Constitutional Court.[31]

OI is an equality mechanism, which promotes, monitors and supports equal treatment, without discrimination, on grounds defined in Law no. 05/L-021 on Protection from Discrimination[32] and with Law No. 05/L-020 on Gender Equality.[33]

In order to fulfill the constitutional role, the Ombudsperson continuously cooperates with local and international organizations, whose profile is in compliance with the mandate it has. In this spirit, the OI has collaborated with the UNFPA Office in Kosovo, which has supported the realization of this ***Inquiry***, as well as the ***Assessment*** addressed in 2016.

United Nations Population Fund (UNFPA)[34] *is the United Nations Agency for Sexual and Reproductive Health, whose mission is to help for a world where every pregnancy is desirable, every birth is safe and where the potential of every young person is fulfilled. The UNFPA Office in Kosovo has been advocating since 1999 for the reproductive health and the rights of every woman, man and child, individually and as a family, with the commitment to create a world where no mother dies during childbirth, where every pregnancy is desired and every individual can enjoy their life in health, dignity and opportunity.*

Constitution of the Republic of Kosovo

The values on which the Republic of Kosovo is built, are established in the Constitution[35] in Article 7: "*The constitutional order of the Republic of Kosovo is based on the principles of freedom, peace, democracy, equality, respect for human rights and freedoms and the rule of law, non-discrimination*, [...]" (paragraph 1) and "*The Republic of Kosovo guarantees gender equality as a fundamental value for the democratic development of society*, [...]." (paragraph 2).

The Constitution of the Republic of Kosovo is the "*highest legal act*" of the country and "*laws and other legal acts*" must follow its spirit and be in accordance with it (Article 16).

[31]Constitution of the Republic of Kosovo, articles 113, para. 2, and 135, para. 4; Law no. 05/L-019 on the Ombudsperson, article 16, para. 10; Law no. 03/L-121 on the Constitutional Court of Kosovo, Article 29.
[32]Law no. 05/L-021 on Protection from Discrimination, Article 9.
[33]Law no. 05/L-020 on Gender Equality, Article 13.
[34]See at: https://kosovo.unfpa.org/en/node/9285, (accessed on 24.11.2022)
[35] https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702

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The Constitution, in Article 21, has expressly defined the general principles, according to which: "*The fundamental human rights and freedoms are indivisible, inalienable and inviolable and are the basis of the legal order of the Republic of Kosovo.*" (paragraph 1). This article specifies: "*The Republic of Kosovo protects and guarantees basic human rights*, [...]." (paragraph 2); "*Everyone has the duty to respect human rights and fundamental freedoms* [...]." (paragraph 3); "*The basic rights and freedoms provided by this Constitution also apply to legal entities*, [...]." (paragraph 4).

In Article 22, the Constitution provides for the direct implementation of International Agreements and Instruments: "*Human rights and fundamental freedoms guaranteed by the following international agreements and instruments are guaranteed by this Constitution, are directly applicable in the Republic of Kosovo, and in the case of conflict, have priority over provisions of laws and other acts of public institutions*."

Furthermore, the Constitution, in Article 23, guarantees: "*Human dignity is inviolable and is the basis of all fundamental human rights and freedoms*."

Article 25 is also relevant to the focus of this inquiry: "*Every individual enjoys the right to life*." (paragraph 1).

Article 26 is directly related to this inquiry, which guarantees that "*Every person enjoys the right to have his/her physical and psychological integrity respected, which includes*:

1) the right to make decisions in relation to reproduction in accordance with the rules and procedures set forth by law;

2) the right to have control over her/his body in accordance with law";

3) the right not to undergo medical treatment against his/her will as provided by law";

4) the right not to participate in medical or scientific experiments without her/his prior consent"

With a special constitutional article - Article 36, *the right to privacy is guaranteed* (paragraph 1): " *Every person enjoys the right of protection of personal data. Collection, preservation, access, correction and use of personal data are regulated by law*." (paragraph 4).

Likewise, Article 51 [Health and social protection] guarantees: "*Health care and social insurance are regulated by law*."

Extremely important from the point of view of human rights and their evolution in new time and social contexts and circumstances is Article 53 of the country's Constitution. According to this article, human rights and freedoms, guaranteed by this Constitution, "[...] *shall be interpreted in consistency with the court decisions of the European Court of Human Rights*."

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International instruments and standards

International standards play an important role in shaping the way states should react and fulfill their obligations in relation to the rights and freedoms of the individual. The same principle applies to sexual and reproductive rights, including health rights.

In the context of our country, the international instruments included in the Constitution provide a unique, inclusive framework for the protection of human rights and freedoms, and guide the approach towards a perspective of human rights and freedoms, regarding issues of this nature.

List of International Instruments, directly applicable in the Republic of Kosovo

1. Universal Declaration of Human Rights[36]

2. The European Convention for the Protection of Human Rights and Freedoms and its Protocols.[37]

3. International Convention on Civil and Political Rights and its Protocols.[38]

4. Framework Convention of the Council of Europe for the Protection of National Minorities.[39]

5. Convention on the Elimination of All Forms of Racial Discrimination.[40]

6. Convention on the Elimination of All Forms of Gender Discrimination.[41]

7. Convention on the Rights of the Child.[42]

8. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[43]

9. Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention).[44]

In this regard, the National Institutions for Human Rights (NIHR), such as the OI in Kosovo, which are established in accordance with the standards defined in the *Paris Principles*[45], play an essential role in the supervision and promotion of the effective implementation of the best international human rights standards.

[36] https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/aln.pdf

[37] https://www.echr.coe.int/documents/convention_sqi.pdf

[38] https://hrrp.eu/alb/docs/CCPR-a.pdf

[39] https://rm.coe.int/16800c131a

[40] https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial

[41] https://hrrp.eu/alb/docs/CEDAë-a.pdf

[42] https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child

[43] Amendment of the Constitution of the Republic of Kosovo no. 07-v-058, September 25, 2020, amendment no. 26, see inhttps://rm.coe.int/168064d3f6

[44] Amendment of the Constitution of the Republic of Kosovo no. 07-v-058, September 25, 2020, amendment no. 26, see inhttps://rm.coe.int/168064d3f6

[45]The Paris Principles on the Status of National Human Rights Institutions define the minimum standards that an INHRC must meet in order to be considered credible and to function effectively. They were adopted by UN General Assembly Resolution 48/134, on December 20, 1993, seehttps://ganhri.org/paris-principles/

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- **Universal Declaration of Human Rights (UDHR)**[46] is an instrument directly applicable in the Republic of Kosovo. UDHR has a general approach regarding the right to life, the right to be treated with dignity and protected from inhumane treatment, as well as the right to enjoy a good standard of living in terms of health and medical treatment. Article 3 and Article 25 of UDHR are related to health and well-being.

- **European Convention for the Protection of Human Rights and Freedoms and its Protocols (ECHR)**[47] provides protection for a wide variety of civil and political human rights.The rights, according to this Convention, which are particularly important for SRH, include articles 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, Protocol no. 1, 7 and 12 of ECHR.

- **International Convention on Civil and Political Rights (ICCPR)**[48] describes universal civil and political rights. Articles 7, 9, 12, 17, 19, 22, 23 are particularly important for HIV/AIDS issues and for SRH.

- **Framework Convention of the Council of Europe for the Protection of National Minorities (FCCEPNM)**[49] is a multilateral instrument for the protection of national minorities in general. The Convention covers a wide range of issues that are essential for the protection of minorities and an integral part of the protection of human rights.

- **Convention on the Elimination of All Forms of Racial Discrimination (CEFRD)**[50] is an instrument that reflects efforts to address discrimination based on skin color, descent, and ethnic and national origin. Victims of discrimination within the scope of the Convention include minorities, Indigenous peoples and caste or descent groups.

- **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**[51] recognizes women's rights to SRH as essential for women's health. The direct connection of CEDAW with the rights of women and girls in SRH is provided in articles 1-6, 12, and 16 (1) (e).

- **Convention on the Rights of the Child (CRC)**[52] emphasizes that children too are entitled to their rights. Childhood is separate from adulthood and lasts until the age of 18. The connection of the CRC with the rights in the SRH extends to articles: 3, 13, 14, 23, 24, 34.

- **Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment-** is aimed at preserving human dignity, rights and freedoms through a set of principles and prohibitions against the misuse of biological and medical advances.

[46] https://www.un.org/en/about-us/universal-declaration-of-human-rights
[47]Compendium of selected documents, legislation and case law from the work of treaty bodies and courts within the European Human Rights System relating to reproductive and sexual health. THE APPLICATION OF HUMAN RIGHTS TO REPRODUCTIVE AND SEXUAL HEALTH: A COMPILATION OF THE WORK OF THE EUROPEAN HUMAN RIGHTS SYSTEM, MARCH 2002,https://www.law.utoronto.ca/sites/default/files/documents/reprohealth/european_volume_1.pdf
[48]International Covention on Civil and Political Rights, 99 U.N.T.S. 171, see:https://www.hivlawandpolicy.org/resources/international-covenant-civil-and-political-rights-99-unts-171.
[49] https://rm.coe.int/16800c131a
[50] The International Convention on the Elimination of All Forms of Racial Discrimination: A Commentary, Patrick Thornberry, Oxford Commentaries on International Law, July 2016, see https://opil.ouplaë.com/vieë/10.1093/laë/9780199265336.001.0001/laë-9780199265336
[51] https://hrrp.eu/alb/docs/CEDAw-a.pdf
[52]UNICEF, see https://www.unicef.org/child-rights-convention#learn

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- **Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence**,[53] defines the SRH rights in articles 1, 3, 5, 10, 11, 14, 16, 17. The implementation and realization of these rights in practice is in the interest of the functioning of the rule of law.

International Convenant on Economic, Social and Cultural Rights[54] is not included in the Constitution of the Republic of Kosovo, in contrast to the aforementioned instruments. This Convention represents the main instrument for the protection of the right to health. In Article 12, it recognizes: "*The right of every person to the enjoy the highest attainable standard of physical and mental health*." Whereas in paragraph 2.a, it is determined that the measures that the state parties must take to achieve the full realization of this right must ensure: "*Decreasing mortality during childbirth and infant mortality, as well as healthy development of the child*."

The committee of this convenant, in the General Comment no. 14[55], explains: "*The provision of maternal health services is comparable to an essential obligation, which cannot be derogated under any circumstances, and states must have an immediate obligation to take planned, concrete and targeted steps towards the fulfillment of the right to health, pregnancy and childbirth*." While General Comment no. 22[56] recommends that states: "*Repeal or eliminate laws, policies, and practices that criminalize, impede, or undermine access by individuals or a particular group to sexual and reproductive health facilities, services, goods, and information*."

Convention on the Rights of Persons with Disabilities[57] **and Optional Protocol** is also not included in the Constitution of the Republic of Kosovo. However, recognizing the purpose of this Convention: "[...] *to promote, protect and ensure that all persons with disabilities fully and equally enjoy all fundamental human rights and freedoms, and promote respect for their dignity*." (Article 1, paragraph 1), it is extremely important to be included in international instruments directly applicable in the country. This would establish a platform through which the state would demonstrate its commitment to respecting and protecting the rights of persons with disabilities.[58]

Any exclusion or limitation due to disability affects the exercise of all basic human rights and freedoms in the political, socio-economic, cultural, civil or any other field, and is therefore discrimination based on disability.

The inclusion of the Conventions in question, as an integral part of the country's Constitution, was also recommended in the *Assessment* addressed in 2016. Moreover, the inclusion of the European Social Charter (revised in 1996) and its direct implementation in local legislation was

[53]Compendium of selected documents, legislation and case law from the work of treaty bodies and courts within the European Human Rights System relating to reproductive and sexual health.
[54] https://kmd.al/wp-content/uploads/2018/05/1524735715-Pakti-Drejtat-Ekonomike-Sociale-Kulturore.pdf
[55]Economic, Social and Cultural Committee, General Comment No. 14, accessible at:https://documents-dds-ny.un.org/doc/UNDOC/GEN/G00/439/34/PDF/G0043934.pdf?OpenElement
[56]Economic, social and cultural committee, General Comment no. 22,https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/089/32/PDF/G1608932.pdf?OpenElement
[57] https://www.un.org/disabilities/documents/convention/crpd_albanian.pdf
[58]"Persons with disabilities include individuals with long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may prevent their full and effective participation in society like the rest." (Article 1, paragraph 2, of the Convention on the Rights of Persons with Disabilities https://www.un.org/disabilities/documents/convention/crpd_albanian.pdf

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recommended. These Conventions would pave the way for the full enjoyment of human rights and freedoms, comprehensively, equally and without discrimination, according to international standards.

The relationship of rights in the SRH with the 2030 Agenda and the role of the OI

The eradication of poverty, inequality, the realization of human dignity and the promise not to leave anyone behind and to reach first those who are left behind, are based on the principles of human rights, equality and non-discrimination and constitute the commitment and the assurance of the states through the 2030 Agenda for Sustainable Development.

This Agenda is based on Resolution A/RES/70/1 of the UN General Assembly, approved on September 25, 2015. In the local context, the Assembly of the Republic of Kosovo, on January 25, 2018, expressed its political will and readiness to engage in the implementation of this global framework, through Resolution No. 06-R-001, for the approval of Sustainable Development Goals (SDGs). Meanwhile, in October 2018, the Assembly established the Council for Sustainable Development, as an inter-institutional mechanism within the Assembly, with the aim of coordinating the processes towards the fulfillment of this Agenda.

The 2030 Agenda presents a global level action plan in which states have expressed their commitment and strive to be partners to fulfill 17 objectives, with 169 specific targets, and with 231 corresponding indicators.[59] This document places at its core the key pillars of the universal visio, such as: *population, prosperity, planet, peace and partnership* (known as the five Ps), on which real and sustainable development relies.

The agenda calls for inclusiveness and partnership in terms of knowledge, expertise, experiences, resources, etc., so that progress towards achieving the objectives occurs globally.

The objectives and goals of the 2030 Agenda reflect the internationally accepted standards of human rights and integrate the cross-cutting principles related to them, in order to realize the commitment to leave no one behind and to influence the enjoyment of these rights by everyone and everywhere.

From a human rights perspective, approximately half of the SDG indicators have the potential to produce data that are directly relevant to monitoring specific human rights instruments, while the rest have indirect relevance or provide contextual and analytical information.[60] This connection of the Agenda with human rights is highlighted in the Merida Declaration[61] for the role of NHRI in the implementation of the 2030 Agenda.

[59]For more, see https://unstats.un.org/sdgs/indicators/indicators-list/#:~:text=The%20global%20indicator%20framework%20includes%20231%20unique%20indicators.
[60]For more, see https://www.humanrights.dk/what-we-do/sustainable-development-goals/sdgs-indicators-data#:~:text=Approximately%20half%20(49%25)%20of,enable%20or% 20limit%20the%20realization
[61]The Merida Declaration was adopted by the Global Alliance of Human Rights Institutions (GANHRI) at the 12th Conference of the International Coordinating Committee of National Human Rights Institutions (ICC), held in Merida, Yucatán, Mexico, on 8-10 October 2015. The focus of the Conference was on "Sustainable Development Objectives and the role of NHRI in this context. For more information on the role of NHRI according to this Declaration, please see:https://ennhri.org/our-work/topics/sustainable-development-goals/#:~:text=The%20M%C3%A9rida%20Declaration%2C%20adopted%20by,human%20rights%20and%20sustainable% 20 development.

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There, it is also affirmed that the Agenda strongly embodies the UN Charter[62], the Universal Declaration of Human Rights[63], and international treaties and instruments. A part of these International Agreements and Instruments, has been integrated into the Constitution (Article 22)[64] by the Republic of Kosovo. However, the fact that our country is not a member state of the UN, results in non-reporting to treaty bodies, including the Human Rights Council and the Universal Periodic Review (UPR) process.[65] This affects the way of reporting as a mechanism and processes for monitoring and implementing international instruments, and hinders progress in this direction.

OI **draws attention** to the fact that the non-inclusion of the International Convention on Economic, Social and Cultural Rights in the country's Constitution means that Kosovo is without a key instrument in terms of achieving the objectives and goals of the 2030 Agenda. Moreover, both documents (the Convention in question and Agenda 2030) complement and strengthen each other. The Convention on the Rights of Persons with Disabilities, as well as the European Social Charter (revised in 1996) would also serve this function.

Based on the principles of establishment and operation, OI is a NHRI, in accordance with the Paris Principles[66]. Due to the importance of these institutions at the international level, the Agenda has set as a special indicator, the existence of these institutions in compliance with the Paris Principles (Objective 16, indicator 16.a.1).[67] Institutions of this nature, wherever they operate, apply a ***human rights-based approach*** throughout their work[68], in the exercise of the functions, powers and responsibilities they have.

Based on the Resolution on the 2030 Agenda, it is the responsibility of the respective governments to monitor and evaluate progress in terms of achieving the SDGs and the target goals.

To help in this aspect and to serve the accountability on the part of governments, the global framework of indicators (indicators) has been developed.

Disaggregated, qualitative, accessible, reliable and timely data are essential for assessing human rights progress, highlighting inequalities, ensuring accountability and transparency, and providing the necessary information for decision makers.[69]

The inquiry which began in 2021 is closely related to the objectives 3 and 5 and the corresponding indicators relevant to these two specific objectives (see Table 3).

[62]For more seehttps://www.un.org/en/about-us/un-charter
[63]For more seehttps://www.un.org/en/about-us/universal-declaration-of-human-rights
[64]For more, see https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702
[65]The Universal Periodic Review is a unique process that involves reviewing the human rights records of all UN member states. As a process, it is state-led, under the auspices of the Human Rights Council, which provides the opportunity for each state to declare what actions they have taken to improve the human rights situation in their countries and to fulfill their human rights obligations. As one of the main features of the Council, the UPR is designed to ensure equal treatment for all countries when their human rights situations are assessed. The ultimate goal of this mechanism is to improve the human rights situation in all countries and address human rights violations wherever they occur. Currently, no other universal mechanism of this type exists. (information accessible at: https://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx)
[66]The Paris Principles relate to the status of national institutions for the promotion and protection of human rights, approved by UN General Assembly Resolution 48/134, dated December 20, 1993.
[67]For more, see https://www.ohchr.org/Documents/Issues/HRIndicators/SDG_Indicator_16a1_Metadata.pdf
[68]For more see https://ennhri.org/about-nhris/human-rights-based-approach/
[69]For more, seehttps://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

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Table 3. Objectives that are directly related to the focus topics of this Inquiry		
OBJECTIVE 3 **Good health and well-being**	**Indicator 3.7.1**	Percentage of women of reproductive age (15-49 years) who need family planning, with modern methods.
	Indicator 3.7.2	Adolescent birth rate (aged 10-14 years; 15-19 years) per 1000 women of these age groups
	Indicator 3.c.1	Density and distribution of health workers
	Indicator 3.8	Universal health coverage
OBJECTIVE 5 **Gender equality**	**Indicator 5.6.1**	Percentage of women aged 15-49 who make informed decisions about sexual relations, contraceptive use and reproductive health care.

In this context, the Merida Declaration defines the role of NHRI in terms of their advisory competence regarding the shaping of contextual indicators and sound data collection systems, as well as the role of monitoring progress in the implementation of the Agenda.[70]

The identification of relevant indicators, which are based on the guidelines on human rights indicators and access to human rights-based data compiled by the Office of the OHCHR, are essential for the implementation of the 2030 Agenda. In this context, OI recalls that the responsible and competent authority to direct the process for the development of indicators at the country level are the offices for national statistics, such as the Kosovo Agency of Statistics, since they have knowledge of the available data sources and of the main obstacles that must be addressed.

In addition to the advisory and monitoring role, NHRIs are also seen as a bridge between rights holders and the state regarding the design and monitoring of policies, strategies and actions. As such, the Oi, in accordance with its mandate, continuously addresses issues affecting human rights, focusing on vulnerable and marginalized groups.

Regarding legal measures and policies to eliminate discrimination and further substantial inequalities, OI can advise and raise issues that require immediate attention or special measures. Oi has an advisory and advocating role in relation to human rights obligations, including the SDGs and the gaps that affect the most vulnerable groups of rights holders.

[70]For more, see https://www.theioi.org/ioi-news/current-news/merida-declaration-on-nhris-role-in-implementing-the-2030-agenda-for-sustainable-development

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Framework and analysis of applicable laws related to SRH

Our country has a relatively good legal framework that regulates sexual and reproductive health. The laws and by-laws mentioned below have been analyzed for the purpose of this Inquiry. This legislation regulates general and specific health issues, as well as other laws related to their implementation and supervisory mechanisms.

Table 4. **Applicable laws related to SRH**
Law no. 04/L-125 on Health
Law no. 08/l-043 on Amendment and Supplement to Law no. 04/l-125 on Health
Law no. 02-L/78 for Public Health
Law no. 08/l-048 on the amendment and supplementing of Law no. 02/l-78 on Public Health
Law no. 02-L76 on Reproductive Health
Law no. 03-L/110 on Termination of Pregnancy
Law no. 2004/38 on the Rights and Responsibilities of Kosovo Residents in the Health System
Law no. 04/L-249 on Health Insurance
Law no. 08/l-049 on Amendment and Supplement to Law no. 02/l-38 on Health Inspectorate
Law No. 07/L-006 on the Prevention and Combating of the Covid-19 Pandemic in the Territory of the Republic of Kosovo
Law no. 02/L-109 on the Prevention and Combating of Contagious Diseases
Criminal Code no. 06/L-074 of the Republic of Kosovo
Law no. 06/L-082 on Personal Data Protection
Law no. 04/l-150 on Chambers of Health Professionals
Law no. 05/l -024 on the Emergency Medical Service
Law no. 03/l-040 on Local Self-Governance

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Table 5. Applicable by-laws related to SRH
Administrative Instruction GRK no. 05/2014 on the operation of the health service in prisons
Administrative Instruction no. 03/2019 on Clinical Guidelines and Protocols
Administrative Instruction no. 01/2016, Continuous medical education
Administrative Instruction no. 15/2013, Charter of rights and responsibilities of patients
Administrative Instruction (Health) No. 04/2020, Primary Health Care
Administrative Instruction No. 11/2014, Prevention of Conflict of Interest in Health Institutions
Administrative Instruction no. 11/2013 Health Information System (HIS) and reporting of statistical health data
Administrative Instruction (MH) 09/2011 Special Circumstances and Medical Indications for Safe Termination of Pregnancy in the Republic of Kosovo.
Administrative Instruction no. 07/2013 Contemporary methods and instruments for family planning
Administrative Instruction no. 06/2013 on Medically Assisted Reproduction
Strategies and Action Plans related to SRH

Analysis of the legal framework for SRH

For the purpose of this inquiry, the applicable laws of the country were consulted as well as the by-laws provided for the relevant laws, which regulate health in general and SRH in particular.

Although the main source of data collection has been acquired in the real situation on the ground, as well as through the narratives of girls and women, during the inquiry process it was crucial to consult the legal regulation regarding the topics in focus and for SRH in general (see Table 4 and Table 5).

During the consultation of these laws, legal gaps and a lack of harmonization of laws was encountered.

Taking into account the dynamics in the country, considering the legislation, as well as the overall social development, including science and technology, the need to harmonize laws including concepts related to health in general, and especially sexual and reproductive health, is evident. It is also necessary to review and adapt the choices of language used, taking into account human rights and the need for appropriate gender sensitivity.

This legal analysis does not exhaust the list of shortcomings that these laws may have, but it is an indication of the need to supplement and amend them, as well as draft additional relevant laws.

The by-laws derived from these laws are scattered, some on the MoH website, some are found in the repealed laws in the Official Gazette, and some others are properly found in the laws in force. This causes confusion for anyone who needs to refer to these acts.

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OI notes that Law no. 03/L-190 on the Official Gazette of the Republic of Kosovo, in Article 6, paragraph 1, determines that, "*The legal acts defined in article 4 are published in the Official Gazette only when such an act, the final version in the original, is submitted in a signed form in at the publication office in the Official Gazette at the request of the body that issued such legal act*".

All institutions are obliged to submit legal acts to the Official Gazette for publication in printed and electronic form (Article 6, paragraph 2). The submission of the legal acts of the ministries for publication in the Official Gazette is done by the permanent secretary or the person authorized by them (Article 7, paragraph 4), and they are obliged to do this within 5 days from the day the act is issued (Article 7, paragraph 8.).

Although in this inquiry the issue of assisted reproduction was not in focus, during the consultation of the laws it was observed that the issue of assisted reproduction is not regulated by law. Consequently, considering the complexity and sensitivity of the issue, the OI notes that it is necessary to regulate this issue by law.

Law no. 02/L-38 on Health Inspectorate has been supplemented and harmonized with Law no. O5/L-087 on Offence, with Law no. 08/L-049 for the amendment and completion of Law no. 02/L-38 on Health Inspectorate (published in the Official Gazette on September 1, 2022). OI notes that the references in Law no. 2004/4 on Health, which was repealed by Law no. 04/L-125 for Health (entered into force on 22.5.2013) have not been regulated.

As for the Pharmaceutical Inspectorate (PhI), based on Law no. 04/L-125 on Health, in article 47 it is foreseen that the work, organization, authorizations, tasks and powers of the Pharmaceutical Inspectorate are defined by a separate law. Also, with Law no. 04/L-190 on Medical Products and Equipment, in Article 5, paragraph 3, the same is required. OI notes that despite the fact that two laws have provided for the issuance of a separate Law on PhI, such law does still not exist.

Law no. 02/L-76 on Reproductive Health contains provisions that refer to Law no. 2004/4 on Health, repealed by Law no. 04/L-125 on Health (in force since May 22, 2013). Article 2 (refers to Article 1), Article 17 (refers to Article 109), Article 23 (refers to Article 46), Article 34 (refers to Article 57), are references to the repealed Law on Health, which either have been removed, or regulate another aspect, without any connection to the articles in which they refer. Regarding this issue, OI notes that the references of Law no. 02/L-76 on Reproductive Health, which refer to the provisions of the repealed Law no. 2004/4 on Health, are unstable and legally non-existent.

The OI finds that in this particular case, the provisions of the Law on Reproductive Health should be harmonized with the provisions of the Law on Health, so that the references are based on the legislation that is in force and that is being implemented.

Even **Law 03/L-110 on Termination of Pregnancy** contains provisions that refer to Law no. 2004/4 on Health, which was repealed by Law no. 04/L-125 on Health (in force since May 22, 2013).

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In this regard, Law 03/L-110 on Termination of Pregnancy, in Article 2 [Definitions], defines: "*For the purposes of this Law, the definitions of terms from Law no. 2004/4 on Health, Chapter I, Article 1 and the special definitions as follows are valid*: [...].", while the special definitions have been expressly defined in the content of its Article 2 [Definitions].

Article 17 of Law no. 03/L-110 on Termination of Pregnancy refers to Article 107.3 of Law 2004/4 on Health, repealed by Law 04/L-125 on Health. While the by-law provided under Article 22 of Law 03/L-110 on Termination of Pregnancy, which deals with co-payments for elective termination of pregnancy, is not found in the Official Gazette.

Moreover, the definition of the concept regarding abortion and elective termination of pregnancy, given in Article 2 of Law no. 03/L-110 on Termination of Pregnancy, is not clear. In the definition of abortion, it is said: "*It is the termination of pregnancy by force*", and for the elective termination of pregnancy it is said: "*It is the termination of pregnancy deliberately and voluntarily by the woman, without any medical reasons*", but the time limit is not defined as in the definition for induced termination of pregnancy, induced birth, stillbirth. While in the content of the law, the word "female" is encountered, which is an outdated concept in relation to social and scientific developments, and the term used should be "woman".

Also, Law no. 03/L-110 on Termination of Pregnancy in the Serbian language version is not in accordance with the version of this law in the Albanian language (e.g.: in Albanian the term "Abortion", is defined as "*Abortion is the termination of pregnancy by force*", while in the Serbian language, "*Abortus je nasilni prekid trudnoće željom odnosnog para*", which in Albanian means: "*Abortion is the termination of pregnancy by force, with the consent of the couple"*. Further, in Albanian, "*Elective termination of pregnancy - the termination of pregnancy deliberately and voluntarily by the woman, without any medical reasons*" meanwhile in the Serbian language it is "*Elektivni prekid trudnoće - je namerni i voljni prekid trudnoće iz zdravstvenih razloga*", which translated into Albanian, has the meaning: "*Elective termination of pregnancy - is the termination of pregnancy deliberately and voluntarily, for medical reasons*.")

OI **draws attention** that in the case of the harmonization mentioned above, the responsible ministry should take into account that the reference should not be made by citing the law with a number, because in case of amendment or repeal of the law with the specified number, the reference will be non-existent, as is the current case in the references defined in Law no. 02-L76 on Reproductive Health and the Law on Termination of Pregnancy.

Ombudsperson **recommends**:

Assembly of the Republic of Kosovo

- *To carefully monitor the linguistic compatibility of the acts it approves. Special care should be taken to ensure that the translation of these approved acts preserves the accuracy of the provisions from one language to another.*

Ministry of Health:

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- *To supplement and amend Law no. 02-L76 on Reproductive Health, in order to harmonize it with Law no. 04/L-125 on Health.*
- *To supplement and amend Law no. 03/L-110 on Termination of Pregnancy, in order to harmonize it with Law no. 04/L-125 on Health,*
- *To supplement the amendment of Law no. 02/L-38 on Health Inspectorate, in order to harmonize it with Law no. 04/L-125 on Health.*
- *During the drafting of legal acts issued by the MoH, take into account the linguistic compatibility between acts and the accuracy of translations from one language to another.*
- *To regulate the functioning of the Pharmaceutical Inspectorate by law.*
- *To regulate assisted reproduction by law.*
- *To publish the regulations and AIs in the Official Gazette.*

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Chapter II

Health system in Kosovo

Law no.04/L-125 on Health[71] represents the legal basis for the protection and advancement of the health of the citizens of the Republic of Kosovo through health promotion, preventive activities, and the provision of comprehensive and qualitative health care services.[72]

According to the provisions of this law, health activity is an activity of special public interest. Health care services and activities are subject to the supervision of legality provided by the Ministry of Health and the professional supervision provided by the Chamber of Health Professionals.[73]

Ministry of Health (MoH)

MoH, according to the law, "[...] *develops policies and implements the laws of a non-discriminatory and responsible health care system, based on professional analysis and scientific data*."[74]

The Ministry of Health coordinates the activities for the development and coherent implementation of health policies, the supervision of the implementation of standards, including inspection and other services, as necessary, the monitoring of the situation and the implementation of adequate measures for the prevention, identification and resolution of problems in the health sector; management and development of health care infrastructure, and human resource planning in health care.[75]

Law no. 04/L-125 on Health also regulates private health care activity. The activity of the private health sector is exercised on the basis of the principle of full equality with the public health sector, except in cases where this law stipulates otherwise.[76] In order to provide health care services, health institutions are required to be licensed. Health care is provided only in licensed health facilities.[77]

In Article 16 of this Law, the health system in the country is defined as a unique system. The responsible ministry (Ministry of Health) regulates, supervises and controls the implementation of health care in public, private and public-private institutions.

MoH exercises these roles at all three levels of health care[78]: Primary Health Care (PHC); Secondary Health Care (SHC); Tertiary Health Care (THC).

Health care services at the three levels are provided by the implementation of the referral system from PHC to SHC and from SHC to THC. This is also supported by the coordination and mutual

[71]Law no. 04/L-125 on Health https://gzk.rks-gov.net/ActDetail.aspx?ActID=8666
[72]Ibid., Article 1.
[73]Ibid., Article 7.
[74]Ibid., Article 8.
[75]Ibid., Article 9.
[76]Ibid., Article 25.
[77]Ibid., Article 16.
[78]Ibid., Article 15.

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communication between the three levels of health care.[79]

Primary level health care institutions (PHCs)

The World Health Organization (WHO) defines PHC as: "*Essential health care to which individuals and families in the community have universal access in ways acceptable to them, through their full participation and at a cost that can be covered by the community and the state. It is an integral part of the health system of the state, as an essential function of the general social and economic development of the community*."[80]

PHC institutions are Main Family Medicine Centers, with their constituent units (Family Medicine Centers and Family Medicine Clinics) and are organized through the concept of family medicine.

The concept of family medicine consists of providing all residents with comprehensive, efficient and ongoing health services through a family doctor, who will be the gateway for all those seeking services in the health system and a point of reference for specialists and consultants in PHC and at other levels of health care, during all stages of life.[81]

Municipalities are responsible for PHC and for assessing the health status of citizens in their territory.[82] Municipalities are obliged to implement priority promotion and prevention measures in health care.

PHC, among others, includes: health care promotion; health education; prevention; early detection; diagnosis; health care services for children, adolescents and young adults; reproductive health services; family planning services, etc.[83]

The services that should be offered in the PHC related to reproductive health are:

- *Activities related to promotion, communication and education.*
- *Safe motherhood care.*
- *Providing quality care for women during birth, including preconception care, pregnancy care, birthgiving and postpartum care.*
- *Prenatal/antenatal care includes education, counseling, screening, and treatment to monitor maternal and fetus well-being.*
- *Check-up visits in a normal pregnancy.*
- *Performing tests, examinations and screenings according to clinical guidelines and protocols.*
- *Counseling before conception, during pregnancy and after birth.*
- *Counseling and management of common concerns in pregnancy.*

[79]Ibid., article 16, paragraph 3.
[80]The Declaration of Alma-Ata in 1978. Primary health care as a key to achieving the objective "health for all", in the field of public health was identified at the international conference on primary health care. See at: https://www.who.int/teams/social-determinants-of-health/declaration-of-alma-ata.
[81] https://msh.rks-gov.net/wp-content/uploads/2020/11/Udhezim-Administrativ-04-2020.pdf, article 3.1
[82]Law no. 03/L-40 on Local Self-Governance, article 17, point j) [Individual competences]; article 19 [Extended municipal competences], paragraph 19.1, as well as Law no. 04/L-125 on Health, article 18 [Primary health care], paragraphs 3 and 4.
[83]Law No. 04/L-125 on Health, Article 18.2, as well as Administrative Instruction-04-2020, Articles 4 and 8.

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- *Management and referral of major problems in pregnancy (HTA, eclampsia, gestational diabetes, hemorrhage, etc.) according to the guidelines and PKK in force.*
- *Management of vitamin and micronutrient deficiency problems.*
- *Examination and management of anemia during and after pregnancy, according to relevant guidelines and PKK.*
- *Health education and promotion.*
- *Family Planning.*
- *Counselling, standardized, up-to-date and relevant information on currently available FP methods and their use to help a client choose a particular method.*
- *Assessment of the woman's health condition before starting a family planning method. To identify specific problems that require evaluation, further treatment or regular follow-up while the woman/girl uses the particular method of family planning.*
- *To provide modern contraceptive methods available, after birth abortion, according to the PKK.*
- *To advise and inform young people about physical changes, sex, the use of contraceptive methods, couple relationships, family, etc. related to their growth and development.*
- *Prevention and management of reproductive tract infections, STIs and HIV AIDS.*
- *Prevention and control of cancers of the reproductive tract.*
- *Care for women in menopause.*
- *Care for women with gynecological problems: Assessment and management of dysmenorrhea; Evaluation of suspected cases of pelvic inflammatory disease.*[84]

The PHC is additionally responsible for the distribution of medication from the essential list with activities foreseen for the management of medication, provision of medication (from the essential list) according to the doctor's prescription, advising on the rational use of medication, timely informing doctors about new pharmaceutical measures, innovations on the way of use, indications of use according to the latest scientific knowledge, monitoring of side effects and their reporting, storage of medication according to the regulations in force, planning for the supply of medication and health materials from the essential list.[85]

University Hospital and Clinical Service of Kosovo (UHCSK)

UHCSK consists of secondary level institutions and tertiary level health care institutions in the public health sector. It carries out its activities and fulfills its obligations and duties in accordance with the norms, standards, strategies and policies issued by the MoH.[86] It is managed by the board of directors.[87]

[84]Administrative Instruction-04-2020, Appendix 2, point 6.
[85]Ibid., point 10.
[86]Law on Health, Article 62.
[87]Ibid., Article 63.

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Secondary level health care institutions (SHC)

General and special hospitals with component units, specialist polyclinics, specialist ambulances, mental health centers in community integration homes, blood transfusion centers, regional public health centers, etc.,[88] are SHC institutions.

In the seven main regional centers of the country, there are hospitals that offer health services, including gynecological-obstetric services. They also do regular planning for medication needs, to be supplied on time by the Ministry of Health, as well as other nursing and administrative services.[89] Specialist gynecological ambulances also operate within hospitals, which also perform gynecological-obstetric services.[90]

Tertiary level health care institutions (THC)

"*Tertiary health care is organized and provided in institutions licensed by the Ministry, where, in addition to health activities, university education, specialist and sub-specialist education, as well as research-scientific work are also offered. Comprehensive health care includes: advanced health care: hospital, out-of-hospital, and public health; counselling services; and emergency transport*."[91] (Article 21, paragraphs 1 and 2).

University Clinical Center of Kosovo (UCCK)

UCCK is included in the organization of the tertiary level of health, organized in: clinics, clinical services and the joint technical and administrative service. The health, educational and research-scientific activities at UCCK are carried out by its constituent organizational units. It also includes the Obstetrics and Gynecology Clinic (OGC)[92] as a specialized clinic for obstetric and gynecological health services, including family planning services, abortion services, health services for pregnant women, childbirth, postpartum counseling services (breastfeeding, contraception, etc.), treatment of benign and malignant health problems, diagnostic and therapeutic procedures for problems with sterility, etc.[93]

National Institute of Public Health in Kosovo (NIPHK)

NIPHK is the highest health, professional and scientific institution that organizes, develops, supervises and implements public health policies in Kosovo.

NIPHK covers the entire territory of the Republic of Kosovo through its branches - public health institutes (IPHs) organized in regional centers: Pejë, Prizren, Mitrovica, Gjilan, Gjakovë, Ferizaj.[94]

NIPHK, as a public institution, among others, carries out reference activities in the field of public health: health planning and programming, work quality control; reference center in the field of

[88]Law No. 04/L-125 on Health, Article 17. 3.
[89] https://UHCSK.rks-gov.net/Navbar/IndexStatic/1053
[90]There, specialist ambulances.
[91]Law No. 04/L-125 on Health, Article 21.
[92]UCCK Statute, Article 12.
[93] https://UHCSK.rks-gov.net/Navbar/SubMenuContent/klinikaObstetrikeGjinekologija
[94]https://niph-rks.org/

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public health for TB, HIV/AIDS and STI; reference center in the field of public health for health promotion and education; analysis, assessment and management of health protection, of special categories of the population, of social and medical importance, as well as malignant, cardiovascular, diabetes and similar diseases; collection, processing and analysis of data from the Health Information System (HIS) and proposal of measures for the advancement and management of HIS, etc.[95]

NIPHK, based on Law no. 02/L-78 on Public Health: "*It is a reference center for health educational program policy, compilation, supervision and evaluation of health information, education and communication programs and materials*[96]*(article 29, paragraph 1); reference center for the implementation of continuous education in the field of health promotion and education*." (article 29, paragraph 2).

The Health Inspectorate (HI) carries out inspection supervision, takes measures and imposes fines on natural and legal persons, health institutions and all other entities defined by law, in case of violation of the provisions of health legislation. Inspection supervision ensures the implementation of ethical, professional norms and standards approved by the Ministry of Health.[97]

Among other things, HI supervises the implementation of the Law on Health and other provisions that regulate the field of health, provides technical and professional advice for health activities, as well as necessary information on techniques to fulfill legal standards in the field of health.[98]

In the case of violations of provisions regarding health legislation, HI imposes sanctions with a fine on the offenders.[99]

HI has authorizations to temporarily, completely or partially terminate the activity of the health institution until the fulfillment of the legal conditions, to order the implementation of concrete measures within the specified legal term, or to submit a denunciation sheet for serious violations of the law, to the competent bodies.[100]

Pharmaceutical Inspectorate (PI) exercises external supervision of manufacturers, importers, wholesale and retail distributors of medical products and medical devices, through repeated performance evaluation, follow-up, ad-hoc and on-demand inspections.[101]

Sanitary Inspectorate (SI)[102] supervises the implementation of the law and the provisions that determine the protection of the health of the population. It is a specialized executive body that controls the implementation of sanitary laws and bylaws in the public and private health sectors.

Prison Health Department[103] supervises the health care service in the prisons of the Republic of

[95]Law 02/L-78 on Public Health, Article 4.2.
[96]Law no. 02/L-78 on Public Health, Article 29.
[97]Law no. 08/l-049 on the amendment and supplementing of Law no. 02/l-38 on Health Inspectorate, Article 1.
[98]Law no. 02/L-38 on Health Inspectorate, Article 2.
[99]Law no. 08/l-049 for the amendment and supplementing of Law no. 02/l-38 on Health Inspectorate, Article 11A.
[100]Law no. 04/L-125 on Health, Article 47, paragraph 3
[101]Ibid., Article 5.
[102]Law no. 2003/22 for the Sanitary Inspectorate of Kosovo https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2489
[103]During the Inquiry, this department was also contacted, but since the Report did not include specific issues related to the category of women prisoners, the information received will be taken into account in any other special Inquiry by the OPI.

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Kosovo, and is organized and functions as an integral part of the country's health system.[104]

Within the health system in Kosovo there are also other health care institutions, which are not included in this report, due to their irrelevance.

Difficulties of health institutions

Although this ***Inquiry*** has focused on the situation of women and girls in terms of receiving health SRH services, during the communication developed with the relevant health institutions, the OI has been made aware of difficulties and challenges, which, in one way or another, have their own effect on the functioning of the system as a whole, but also on the provision of services.

OI has asked these institutions to list the difficulties they face when providing SRH services, and the answers mainly provided a general overview of the difficulties and challenges.

No response has been received in the OI's letters addressed to the relevant directorates for health and social welfare in the municipalities to which the Law on Local Self-Governance [105] has given them expanded powers that include the registration and licensing of health care institutions, the employment of medical personnel, the payment and training of health care personnel and administrators.[106]

In meetings with representatives of the Ministry of Education[107], it is understood that the municipalities inhabited by a Serbian majority do not report on the number of employees nor on the services provided, except at the will of any of the public officials who may have access to these data, which are not complete, but partial.

The difficulties highlighted through communication developed during the process of this Inquiry cannot be addressed by the OI in detail in this Report but neither shall be underestimated. Affirmed by institutions themselves, these difficulties are presented in Table 6 (for PHC), in Table 7 (for SHC and THC) and in Table 8 (for HI), while some of these difficulties are addressed through the recommendations in this Report.

Table 6.

PHC by municipalities	Difficulties claimed by the MFMCs/Directorates
MFMC in Deçan (has a Maternity Hospital)	They have not claimed any difficulties
MFMC in Dragash (has a Maternity Hospital)	Lack of gynecologists
MFMC in Ferizaj	Lack of health-gynecological staff; the absence of gravitest in the list of essential medicines; lack of notebooks for pregnant women; the need for new and updated training.

[104]Law No. 04/L-125 on Health, Article 35.
[105]Law no. 03/L-40 for Local Self-Governance, article 17, point j [Individual competences]; article 19 [Extended municipal competences], paragraph 19.1, as well as Law no. 04/L-125 on Health, article 18 [Primary health care], paragraphs 3 and 4.
[106]DHSW in Zubin Potok, DHSW in Ranillug, DHSW North Mitrovica, DHSW in Graçanica and DHSW in Leposaviq.
[107]On 25.7.2022, meeting with the official responsible for PHC at the Ministry of Education.

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MFMC in Fushë Kosova	Overload of health staff, small number of employees compared to the number of residents, lack of gynecologist. In the first part of this year, the gynecologist has terminated the employment relationship and according to AI 04/2022 on PHC, we do not have the right to hire another, the two main difficulties related to the provision of SRH services.
MFMC in Gllogoc (has a Maternity Hospital)	Family medicine specialists and gynecologists are unstable staff; because of this, the realization of division into areas and the implementation of family medicine remains unattainable; health insurance, lack of Law on Salaries and Performance on health professionals; different worldviews and the community's reluctance towards SRH promotion and education, budget support for awareness-raising campaigns is low, personnel training, etc.
DHSW in Graçanica	They did not respond to the OI's letter.
MFMC in Gjakova	They don't have a gynecologist at the MFMC so they do not provide SRH services.
MFMC in Gjilan	They have not claimed difficulties, on the grounds that they do not have a gynecologist.
MFMC in Han i Elezit	Lack of gynecologists, lack of medication in sufficient quantities, lack of trained staff, lack of family medicine specialists, low salaries and low motivation of health staff.
MFMC in Istog (has a maternity hospital)	Lack of a regular gynecologist (since 2019, we have had a lack of a gynecologist (for more than 6 months), while after this period there is a gynecologist on a half-time basis (three times a week); lack of essential medication.
MFMC in Junik	The lack of gynecologists and other staff trained to provide SRH services is the main obstacle.
MFMC in Kaçanik (has a maternity hospital)	There is no gynecologist and this is the main difficulty; medication from the Essential List for the National Health Service is not in sufficient quantities; lack of trained professional staff and lack of family medicine specialists; low motivation of workers due to low wages.
MFMC in Kamenica (has a maternity hospital)	Since 2014, there is no gynecologist and therefore no specialist services are offered in relation to SRH.
MFMC in Klina (has a maternity hospital)	Lack of gynecologists, lack of delivery room, lack of medication from the list of essential drugs for family planning.
DHSW in Kllokot	MFMC in Kllokot does not operate, we do not offer services according to your questions, Kllokot only offers outpatient services.
DHSW in Leposaviq	They did not respond to the OI's letter.
MFMC in Lipjan (has a maternity hospital)	Patients do not have full confidence in contraceptives and do not take them from the central pharmacy of the MFMC. They think they are of poor quality.
MFMC in Malishevo (has a maternity hospital)	Lack of human resources, difficulties in the supply of contraceptives, difficulties in providing services due to the level of education of women and girls on SRH, stigmatization.
MFMC in Mamusha	We did not have any SRH case facing difficulties.

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MFMC in southern Mitrovica	Lack of IHS and lack of health staff.
DHSW in Northern Mitrovica	They did not respond to the OI's letter.
MFMC in Novobërdë	The municipality has a very large rural territory; the majority community are Serbs. Large number of parallel (Serbian) institutions providing health services from which there is no information about the services provided. There are institutions that are paid by the municipal level, as well as provided utilities, such as electricity and wood for winter. The staff working according to the statute of the MFMC is very small. In total there are 2 doctors and 6 medical technicians, who do not even come close to meeting the needs of the population. The supply of specified drugs is very small and not constant. We lack the most basic things to provide quality and safe services. The terrain is very problematic; we have 1 ambulance that is outdated. No services are offered during weekends and official holidays due to lack of staff. Cooperation with municipal authorities is not at the level of their duties and responsibilities. The main unsolved problem so far is the management of medical waste, which we are just collecting and pending of the competent authority to select the company for their disposal.
MFMC in Obiliq	The non-appointment of the board for cancer protection by the Ministry of Health made it impossible to realize the cervical cancer screening project and the PAP test.
DHSW in Partesh	There is no doctor employed under the Kosovo system, so all services are performed by doctors under the Serbian system. There is no data on the needs of pregnant women and other gynecological problems. As for the drugs from the essential list, the supply is made from the MoH warehouse in Prishtina. It is emphasized that they have been facing bureaucratic difficulties for years and there is no connection with the drug supply system, even though they have been notified of this problem. Every month, the responsible technician has to go to the neighboring municipality - Gjilan, to his colleagues there, to order medication.
MFMC in Peja	The pandemic period has affected the provision of health services; lack of material and difficulties in providing it for cervical screening. Since this service was not planned in the budget plan, in 2022 they were funded by the municipal budget (Pap tests donated by AMC have significantly influenced the improvement of this service).
MFMC in Rahovec (has a maternity hospital)	The need for training on SRH and the medical staff of the MFMC
DHSW in Ranillug,	They did not respond to the OI's letter.
MFMC in Podujevo (has a maternity hospital)	They have not answered this question.
MFMC in Pristina	They have not answered this question.
MFMC in Prizren,	Patients have requests that a female gynecologist be employed.
MFMC in Skenderaj (has a maternity hospital)	They have not answered this question.
MFMC in Suhareka (has a maternity hospital)	Lack of gynecologists.

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DHSW in Shtrpce	The Directorate of Health and Social Affairs covers the work of the FMC in the village of Drakoc and the FMC in the village of Brod. There is no gynecologist in either of these institutions. The users receive most of these services at the Health Center in Shtërpcë, which operates within the health system of the Republic of Serbia, or at the MFMC in Ferizaj, or in Prishtina, or in private clinics.
MFMC in Shtime	They have not answered this question.
MFMC in Viti **(has a maternity hospital)**	Lack of adequate spaces, lack of continuity of staff training, lack of contraceptives.
MFMC in Vushtrri	They have not answered this question.
DHSW in Zubin Potok	They did not respond to the OI's letter.
DHSW in Zveçan	They have not answered this question.

Table 7. **SHC and THC / Difficulties claimed by UHCSK**	
UCCK	Lack of nurses; lack of infrastructure; frequent lack of medicines, consumables, etc.
General Hospital in Ferizaj	Insufficient space to handle all cases; insufficient number of gynecologists, neonatologists and secondary staff.
General Hospital of Prizren	Lack of materials; lack of contraceptives; lack of instruments, etc.

Table 8. **Difficulties claimed by the Health Inspectorate (HI)**
Small number of health inspectors (10), large number of public and private health institutions for inspection (3000).
Unregulated statute of inspectors.
Lack of legal officers and experts in certain professional fields.
Insufficient work equipment (vehicles).
Risks at work.

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Chapter III

The Rights on Sexual and Reproductive Health

Sexual and reproductive health is considered as one of the main segments of human development and in this sense, care is essential.

SRH care is a set of methods, techniques and services that contribute to reproductive health and complete physical, mental and social well-being by preventing and treating problems of this nature. This care does not only mean counseling about reproduction and sexually transmitted infections, but includes sexual health, the goal of which is to improve quality of life.[108]

SRH rights are human rights and as such are recognized by international human rights instruments. In Kosovo, they are regulated by the Constitution, laws and other legal acts, while concepts related to the SRH are also included and regulated in the Law on Reproductive Health.[109]

Human rights related to sexual and reproductive health (SRH)[110]

- The right to information and education related to SRH

- The right to bodily integrity

-The right to decide whether to be sexually active or not

- The right to freely choose a partner and to have a consensual relationship

- The right to marry with consent

- The right to decide freely and responsibly if individuals or couples want children, when and how many

- The right to safe termination of pregnancy

- The right to appropriate prevention and treatment of infertility

- The right to services for the prevention and treatment of sexually transmitted infections

- The right to prevention and treatment of malignant diseases of the reproductive system and breast cancer

- The right to privacy and confidentiality

The findings of this *Inquiry* have brought to attention the painful experiences of women and girls not only within the period that this *Inquiry* has focused on, but also in their statements prior to 2019. However, it was very evident that whenever they have spoken about violations of their rights,

[108]Programme of Action adopted at the International Conference on Population and Development Cairo, 5–13 September 1994, 20th Anniversary Edition, page 59, point 7.2.
[109]Law no. 02/L-76 on Reproductive Health, Article 2.
[110] https://documents-dds-ny.un.org/doc/UNDOC/GEN/G04/109/33/PDF/G0410933.pdf?OpenElement

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the statements given have not differed over the years regarding the violation of the rights on SRH and access to quality health care and services.

This has highlighted the social, cultural, economic disadvantages of *women and girls*, which have been historically ongoing, but also the problems of the health system.

KAS has not responded to the OI's request regarding the *Inquiry*; however, in an effort to provide a general statistical overview of the SRH, with emphasis on the topics in focus, the Multiple Indicator Cluster Survey in Kosovo (MICS) 2019-2020 has been taken into account.[111] In Table 8[112], we have preserved the authenticity of the MICS Development Indicator table – reproductive health and maternal health (which has been technically adapted, for practical reasons).

Given the importance of accuracy in interpretation and the complexity that MICS data entails, the non-cooperation of KAS has limited the interpretation of this data for the purpose of this *Inquiry*.

[111]Kosovo Agency of Statistics and UNICEF, 2020. Kosovo Multiple Indicator Cluster Survey 2019–2020 and Multiple Indicator Survey 2019–2020 for Roma, Ashkali and Egyptian Communities, Survey Findings Report. Prishtina, Kosovo: Statistics Agency of Kosovo and UNICEF https://mics-surveys-prod.s3.amazonaws.com/MICS6/Europe%20and%20Central%20Asia/Kosovo%20under%20UNSC%20res.%201244/2019-2020/Survey%20findings/Kosovo%20%28UNSC%201244%29%20%28National%20and%20Roma%2C%20Ashkali%20and%20Egyptian%20Communities%29%202019-20%20MICS%20SFR_Albanian.pdf

[112]Table 8 contains the 2019-2020 MICS table, Albanian version, extracted from p. 14, 15, 16.

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Table.9 – Development Indicators – Sexual and Reproductive Health – MICS 2019- 2020

MICS INDICATOR		SDG[10]	Module[11]	Description[12]	Kosovo	Roma, Ashkali and Egyptian Communities in Kosovo
THRIVE – REPRODUCTIVE AND MATERNAL HEALTH						
TM.1	Adolescent birth rate	3.7.2	CM / BH	Age-specific fertility rate for women age 15–19 years	13	78
TM.2	Early childbearing		CM / BH	Percentage of women age 20–24 years who have had a live birth before age 18	1.9	16.4
TM.3	Contraceptive prevalence rate		CP	Percentage of women age 15–49 years currently married or in union who are using (or whose partner is using) a (modern or traditional) contraceptive method	66.7	62.1
TM.4	Need for family planning satisfied with modern contraception[15]	3.7.1 & 3.8.1	UN	Percentage of women age 15–49 years currently married or in union who have their need for family planning satisfied with modern contraceptive methods	12.5	17.1
TM.5a TM.5b TM.5c	Antenatal care coverage	3.8.1	MN	Percentage of women age 15–49 years with a live birth in the last 2 years who during the pregnancy of the most recent live birth were attended (a) at least once by skilled health personnel (b) at least four times by any provider (c) at least eight times by any provider	 99.7 94.4 63.9	 98.0 76.7 37.0
TM.6	Content of antenatal care		MN	Percentage of women age 15–49 years with a live birth in the last 2 years who during the pregnancy of the most recent live birth, at least once, had blood pressure measured and gave urine and blood samples as part of antenatal care	84.0	74.0
TM.8	Institutional deliveries		MN	Percentage of women age 15–49 years with a live birth in the last 2 years whose most recent live birth was delivered in a health facility	99.0	98.6
TM.10	Caesarean section		MN	Percentage of women age 15–49 years with a live birth in the last 2 years whose most recent live birth was delivered by caesarean section	31.4	20.5
TM.11	Children weighed at birth		MN	Percentage of women age 15–49 years with a live birth in the last 2 years whose most recent live-born child was weighed at birth	99.5	96.9
TM.12	Post-partum stay in health facility		PN	Percentage of women age 15–49 years with a live birth in the last 2 years and delivered the most recent live birth in a health facility who stayed in the health facility for 12 hours or more after the delivery	98.2	97.6
TM.13	Post-natal health check for the newborn		PN	Percentage of women age 15–49 years with a live birth in the last 2 years whose most recent live-born child received a health check while in facility or at home following delivery, or a post-natal care visit within 2 days after delivery	97.7	97.4
TM.14	Newborns dried		MN	Percentage of women age 15–49 years with a live birth in the last 2 years whose most recent live-born child was dried after birth	85.1	80.5
TM.15	Skin-to-skin care		MN	Percentage of women age 15–49 years with a live birth in the last 2 years whose most recent live-born child was placed on the mother's bare chest after birth	32.0	33.2
TM.16	Delayed bathing		MN	Percentage of women age 15–49 years with a live birth in the last 2 years whose most recent live-born child was first bathed more than 24 hours after birth	88.5	84.3
TM.19	Post-natal signal care functions[16]		PN	Percentage of women age 15–49 years with a live birth in the last 2 years for whom the most recent live-born child received a least 2 post-natal signal care functions within 2 days of birth	93.2	90.1
TM.20	Post-natal health check for the mother		PN	Percentage of women age 15–49 years with a live birth in the last 2 years who received a health check while in facility or at home following delivery, or a post-natal care visit within 2 days after delivery of their most recent live birth	91.1	86.3
TM.29	Comprehensive knowledge about HIV prevention among young people		HA	Percentage of women and men age 15–24 years who correctly identify the two ways of preventing the sexual transmission of HIV[17], who know that a healthy-looking person can be HIV-positive and who reject the two most common misconceptions about HIV transmission Women Men	 10.5 10.1	 2.7 5.8
TM.30	Knowledge of mother-to-child transmission of HIV		HA	Percentage of women and men age 15–49 years who correctly identify all three means[18] of mother-to-child transmission of HIV Women Men	 32.1 22.9	 16.5 15.2

Women and girls themselves state that it is still considered taboo to talk about sexual health rights. Mainly those from remote rural areas have emphasized that they do not have knowledge about the importance of SRH, just as they do not know where to get information or services related to SRH. Those who affirmed that they have information, said that they mostly get it from their family or

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social connections or networks, and sometimes, but rarely, at school, while they only go to the doctor when they have major concerns.

Different prejudices and labels affect young people. This is more prevalent in rural areas, but urban areas are no exception. Even if they are sexually active, unmarried young women find it difficult to visit the doctor and ask for advice or medical SRH services, because they feel scared and stigmatized because they are gossiped about.

Narrative 1

Thank you for organizing this. It seems I have been in need of such a meeting for a long time. But I have to leave earlier, because my husband's family members are waiting for me outside. In order to participate here, I had to ask for permission from all my family members. Thanks God you are from a state institution, otherwise they wouldn't have allowed me to come here. Not only here, but every time I leave the house, I am accompanied by someone from the family.

A woman, aged 30, with high education, unemployed, living in a rural area.

Even *women* themselves, but especially *girls*, consider SRH issues to be very personal and even embarrassing to discuss with others, including health personnel. This mindset is mainly related to socio-cultural aspects of women and girls themselves. Inadequate education on SRH and therefore on the rights guaranteed to women and girls, contributes to this mindset. The stigma and stereotypes related to this have also resulted in very low participation in the public hearings held during the *Inquiry*, organized as an opportunity for the issues of rights on SRH to be openly discussed. The low participation has been a separate indicator of how difficult it is to gather evidence and facts regarding the respect of SRH rights of women and girls in Kosovo.

Sometimes, this mentality is encountered even among health workers, who happen to be reluctant to provide SRH services (gynecological check-ups). It has been claimed that this happens mainly in cases where service seekers are not married, avoiding the fact that they may be sexually active.

Narrative 2.

"I went to the doctor for a check-up because I had gynecological concerns. The initial question of the doctor was not whether I am sexually active, but whether I am married. When she found out that I am not, the doctor refused to conduct a gynecological examination. She instructed me to take medication, without verifying my real condition. Although I insisted that I needed a check-up, I did not receive the service. "

A woman, about 25 years old, with high education, in an urban area, and with a middle-class economic status.

During the *Inquiry*, NGOs of various profiles were also interviewed,[113] those which have SRH rights issues at the center of their activities, or those who have developed activities related to these

[113]List of interviewed NGOs, Annex 2

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rights. Regarding the issue of informing women and girls, they affirmed that, even though they have carried out activities of this nature, women and girls are still inadequietly informed about the importance and their rights in this aspect.

The importance of providing information and proper education about SRH is closely related to sexual and reproductive rights and the enjoyment of these rights.

The responsibility of providing information and education about SRH falls on the MFMC, which belong to the PHC.[114]Also, the Secondary Health Care (SHC) and the Tertiary Health Care (THC) are responsible for providing information and individual education during the provision of more specialized health services. For the purpose of this *Inquiry*, the OI has addressed the responsible line of authorities to obtain information and data related to the issues in focus.

From the letters that OI has addressed,[115]regarding the promotion and health education in SRH, at the MFMCs (in 29 municipalities) and at the Directorates for Health and Social Welfare, (in 9 municipalities),[116]answers have been received only by some MFMC,[117] from which it was determined that the promotion and education for SRH is mainly carried out by the consultant doctor[118]or the family doctor during the visits that women and girls have at the MFMC. On the other hand, a number of MFMCs have not provided answers regarding planned or realized activities on health promotion and education.

OI has also addressed a letter to NIPHK,[119] related to the activities developed for education and promotion of SRH rights, for the years 2019, 2020, 2021. Based on the received response, it appears that NIPHK[120] has implemented the Health Education Program,[121] offered through Peer Education Methodologies for 16-18 year olds in public primary and secondary schools, supported by UNFPA and KOPF[122]; also, it has launched informative videos and general information about pregnant women and COVID-19.

OI has also addressed the Ministry of Health regarding health education and promotion[123], the development of special programs for adolescents, the building of the capacities of health professionals envisaged by the Strategic Plan for Maternal, Child and Reproductive Health (SPMCRH) 2020-2021.[124]The Ministry of Health has announced[125] that within the "home visits

[114]Administrative Instruction (Health) No. 04/2020 primary health care
[115]List of letters addressed to the Ministry of Health and Social Welfare and Directorates of Health and Social Welfare
[116]Based on Law no. 03/L-40 on Local Self-Governance, Article 17, point j) [Individual competences]; article 19 [Extended municipal competences] paragraph 19.1., as well as Law no. 04/L-125 on Health, article 18 [Primary health care] paragraphs 3 and 4, the letters are addressed to the municipal directorates for health and social welfare
[117]See the MFMCs that have returned answers, in Table 6, according to the respective municipalities
[118]The term consultant, according to the answer from the MFMCs, means the gynecologist, where present
[119]OI's letter to NIPHK dated August 22, 2022, no. 1261/2022
[120]The letter of NIPHK, dated September 6, 2022, no. 782, addressed to the OP, as a response to the OP's letter, dated August 22, 2022, no. 1261/2022
[121]Topics elaborated through the Program carried out by NIPHK: SRH, family planning and contraceptives, sexually transmitted infections and HIV/AIDS
[122]KOPF – The Kosovar Population Foundation, a Non-Governmental Organization with a focus on improving the health of the population, especially vulnerable and low-income people in the country. KOPF is focused on the Social Marketing of contraceptives, namely the male condoms, and peer education for the prevention of HIV, unwanted pregnancies, family planning and reproductive health rights.
[123]The 2021 action plan on health promotion and education is also available at the MoH website (seehttps://msh.rks-gov.net/wp-content/uploads/2020/11/PLANI-STRATEGJIK-P%C3%8BR-PROMOVIM-DHE-EDUKIM-SH%C3%8BNDET%C3%8BSOR-2021. pdf)
[124]Letter of the Ombudsperson to the Ministry of Health, dated March 4, 2022, no. 317/2022
[125]Letter of the MoH, dated March 21, 2022, with no. 98, addressed to the OI, as a response to the OI's letter, dated March 4, 2022, no. 317/2022

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for mothers and children" program, visits were conducted to 22 municipalities, in which this program is implemented.[126] The Ministry of Health announces that it plans to expand home visits to five (5) new municipalities. However, the MoH has not evaluated the implementation of the SPMCRH (2020-2021).[127] On the other hand, in one of the workshops held during this *Inquiry*, it was understood that based on the MoH work plans for 2022, the ministry's plans include drafting the Action Plan on maternal, child and reproductive health, which is expected to be part of the Sectoral Health Strategy Action Plan for the period 2023-2032, which is also being drafted.

With the aim of health promotion and education, the Ministry of Education, Science, Technology and Innovation (MESTI) with the support of UNFPA, in June 2021, launched Teacher's Manuals on Inclusive Sexual Education, which include content that can be used from 1st grade to 12th grade. The purpose of these sex education manuals is to provide students with the knowledge and skills that will guide them toward healthy living, to take responsibility for their own health and well-being, and consequently the well-being of others. From meetings with NGOs, we have been informed that they have trained a certain number of teachers on how to use the Manual and to teach inclusive sex education in schools at country level.

However, the statements during the *Inquiry* have shown that in most schools very little or no inclusive sex education is taught, due to the mindset of both teachers and students' parents. A reflection of this mindset is found in tatements from the focus groups that there are cases when parents have reacted regarding the teaching of SRH. Teachers are snubbed if they teach lessons about SRH. In one of the cases, the parent of a child addressed the teacher with the words: "*My daughter did not come to school to learn these things. You, with these lessons, are spreading immorality in schools*."

OI **concludes** that the right to information and education regarding SRH continues to be violated. The lack of proper education on SRH, within the education system, is a key factor in why progess in this direction continues to be slow. The passive role of the responsible institutions, and the health personnel themselves, aggravates this condition. In this sense, the negative role played by the traditional mentality in relation to women, and in particular prejudices, stereotypes and stigmatization regarding SRH, is inevitable.

Ombudsperson provides **recommendation** to the following institutions:

Ministry of Education, Science, Technology and Innovation

- *To continuously monitor the teaching quality of inclusive sex education and, depending on the findings, take the necessary measures.*

Inspectorate of Education

- *To inspect whether teachers in the country's schools, at all levels, are implementing the curriculum that includes sexual and reproductive health education.*

[126] A total of 22888 visits, 19182 home visits for children, 3695 visits for pregnant women and 813 visits to children of the Roma, Ashkali and Egyptian communities.
[127] Ministry of Health letter, dated March 21, 2022, with no. 98, addressed to the OI, as a response to the OI's letter, dated March 4, 2022, no. 317/2022

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National Institute of Public Health of Kosovo

- *To continue to include SRH in health information and educational activities, with increased attention to communities predisposed to be vulnerable, regarding the enjoyment of SRH rights.*

MFMC *and* **the relevant directorates of health,** in municipalities where there is no MFMC.

- *During the individual visits within the health institutions, to fulfill the obligation of promotion and health education on SRH and to record this segment in the report for the patient.*
- *To increase knowledge, and build abilities and skills for information and education about SRH within the institution (for the personnel)*
- *Planning and realization of information and education on SRH in the community (according to AI 04/2020*).

People with disabilities are the most marginalized and most vulnerable community in terms of human rights and freedoms in the country. From women and girls with hearing and speech disabilities, we have received statements about the impossibility of communicating with the health personnel, either to convey their health concerns, or to receive information from them. During their visits for SRH, they are forced to take someone with them who can interpret sign language. If they do not have someone with them who knows this language, then they remain at the mercy of the interpretation of the person accompanying them (mainly family members).

Narrative 3.

"I have gynecological health problems and I went to the MFMC several times, but I didn't manage to express my health concerns to the doctor and I did not even get the services I think I need. All this happens, because I can neither speak nor hear, and in the absence of a sign language interpreter, I am not able to get information or receive the necessary SRH services. I would like health institutions to have sign language interpreters, so that I and others like me could express our worries and concerns about our health condition and receive the appropriate treatment" [128]

A woman, with hearing and speech disabilities, about 25 years old, in a rural area, with a poor economic status

Clarification: * in order to understand her story, her friend, who knows sign language, interpreted for her.

OP **notes** that the lack of sign language interpreters for people with hearing and speech disabilities, that makes their communication with health personnel impossible, is a ***violation*** of rights.

Ombudsperson **recommends**:

[128]The narratives/interviews (oral or written) have been linguistically edited, to be understandable for each reader, without affecting the essence of the narrative/interview.

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University Hospital and Clinical Service of Kosovo

- *To provide interpretation in sign language for the needs of patients in SHC and THC*

Relevant municipal health directorates

- *To provide interpretation in sign language for the needs of male patients/female patients in the PHC*

Regarding the eventual complaints from SRH service seekers, in the period 2019, 2020, 2021, UHCSK has responded[129] that 90% of its units have reported that they have not received any complaints regarding the SRH services provided, while 10% of them have not reported at all on this question.

Of the MFMCs asked, some have provided answers, while most have said that they have not received complaints. One of the MFMCs claims that the reason they have not received complaints is that women and girls do not have sufficient knowledge about the means of complaining. Women and girls have confirmed this as when they were asked about it, very few of them claimed to have knowledge of the possibility or the complaint mechanism.

However, some women and girls have given other reasons why they do not file a complaint. Most of them have affirmed that they have no information about where they can complain, while some of them have said that in the city hospital where they receive services, there is a complaint box, but they have not done so, since they do not believe that they will be considered by anyone.

Others have said "*I didn't want to complain, because we are a small country and we all know each other*" or "*I thought of complaining, but I don't believe that my complaint will change the situation.*"

Also, some women and girls have hesitated as to whether they are able to summarize their concerns and the behavior of health personnel in a written complaint, while some have claimed that they have just found out that they have the opportunity to complain free of charge through the Free Legal Aid Agency, when they received this information from OP officials.

OP **assesses** that regarding the complaints, the state is obliged to provide continuous information and to operationalize and make the complaint mechanisms effective and efficient. In this way, the state fulfills the positive obligation to ensure everyone's access to justice and to effective and meaningful mechanisms, whenever human rights are violated.

The OP **considers** that despite all the anomalies and difficulties in the functioning of the system, the medical staff behavior, as well as the readiness of the medical personnel to fulfill the obligations and vocation of the profession they have, are responsibilities that fall directly on the conscience, ethics and individual professionalism of the health workers of all categories and are

[129]The answer of UHCSK, November 7, 2022, with Protocol No. 463

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not necessarily related to the lack of budget, insufficient infrastructure or other objective issues, without minimizing their importance.

OP **emphasizes** that even though there is a legal basis, and the structure and mechanisms in agreement with this legal basis, when investigating the functioning of the health system in Kosovo, it is understood that anomalies in functioning and lack of coordination and planning are numerous.

Lack of medical staff and sufficient training to meet the best standards for dignified and quality services; the lack of a sufficient budget for health, including the lack of health insurance, as well as lack of infrastructure which is also not in accordance with the needs and requirements, especially the needs of the populations with characteristics that require sensitivity and special attention, results in the impossibility of fulfilling obligations that the state has for a universal, comprehensive and non-discriminatory access to health.

Based on the responses received from Ministry of Health and from 18 MFMCs, that they do not have a separate budget line allocated for SRH, but only a general budget which is allocated to all health services that are offered, including government grants (11 MFMCs did not provide information), OP **warns** that allocation of a separate budget line for SRH would respond to the proactive and initiative approach of the medical staff, and would correspond to requests and needs of applicants for SRH services.

With regards to SRH rights, OP **notes** that *women and girls*, especially those:

- with disabilities,
- with poor economic status,
- who live in environments with conservative cultural norms
- with marginalized social status
- in remote rural areas
- of the Ashkali, Egyptian and Roma communities,

-remain more vulnerable and still do not enjoy full, comprehensive and non-discriminatory access to quality health information and services.

The Ombudsperson **recommends** the following:

Assembly of the Republic of Kosovo

- *To include in the Constitution of the Republic of Kosovo, the Convention on the Rights of Persons with Disabilities and the Optional Protocol.*
- *To include in the Constitution of the Republic of Kosovo, the International Convention on Economic, Social and Cultural Rights*
- *To include in the Constitution of the Republic of Kosovo, the European Social Charter (revised in 1996)*

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The Government of the Republic of Kosovo:

- *To increase the budget for the health sector, to respond to the needs and demands of the population, considertinginfrastructure and health of staff*
- *To allocate a line for SRH within the general budget for the health sector*.

Ministry of Health

- *To start implementing the relevant Law on health insurance as soon as possible*
- *To promote the free line for citizens' complaints according to the current legislation*

MFMCs and the relevant municipal Directorates for health *and* **UHCSK;**

- *To inform patients about the processof filing a complaint*
- *Provide effective legal remedy processes and implement efficient complaint mechanisms, to fulfill the state's obligation to ensure access to justice for all is without discrimination.*

Barriers to accessing SRH services and/or treatment

Some of the women and girls who were asked about regular gynecological check-ups, including the PAP test and mammography, have affirmed that they do not have enough information about the necessary check-ups for the prevention/early detection of gynecological malignancies and that they mostly visit the doctor when they have health concerns. From their statements, it can be seen some women and girls do not perform regular medical check-ups, with the reasoning "*I don't have information*", "*I didn't need it*", "*I felt fine*", "*I'm embarrassed to visit the doctor*" or "*I didn't have any concerns*".

What has been asserted by them is reflected with the following data extracted from the interviews[130] (for PAP Test - Figures 9, 10, 11, meanwhile for mammography or ultrasound - Figures 12, 13, 14).

[130]14 focus groups were held, 164 women and girls from all regions of Kosovo participated

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Fig. 9. Have you ever had a PAP test?

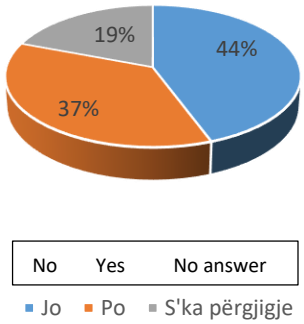


Fig.10. If yes, where?

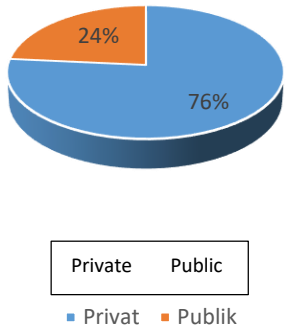


Fig. 11. Why haven't you had a PAP Test?

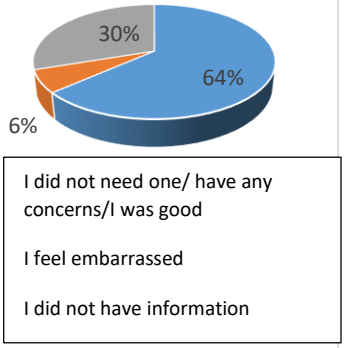


Fig. 12. Have you ever had a mammogram or breast ultrasound?

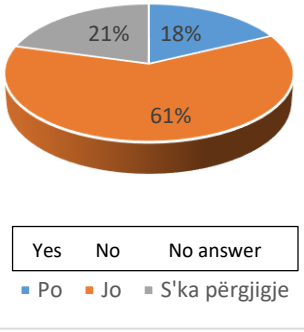


Fig. 13. If yes, where?

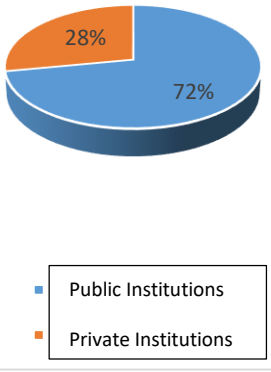
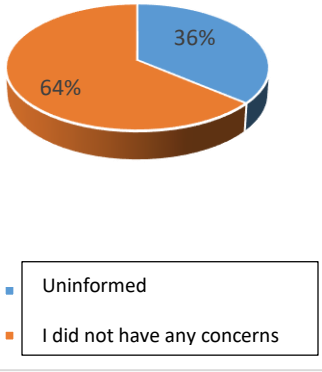


Fig. 14. If not, why?



Among those *women and girls* who participated in focus groups or interviews, there were also those diagnosed with malignant diseases in the reproductive system (uterine and ovarian cancer), as well as breast cancer. They have emphasized that they have faced delays in diagnosis, challenges inperforming tests that are not performed in public institutions, long waiting lists for consultation with the oncologist, availability supply of necessary drugs, as well as lack of drugs.

Meanwhile, the cases with chemotherapy have emphasized that in public institutions the waiting lists are for hours (in a very serious health condition), without sufficient conditions and space, as well as insufficient health personnel to respond to their requests. Since the chemotherapy treatment is centralized only in the Oncology Clinic in the capital, they have to travel many kilometers to and fro and, moreover, they have to be accompanied by family members, due to the serious condition and often the distance from their residences. This affects their health and emotional state.

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NGO[131] interviewees, who have developed awareness-raising activities for the prevention of malignant diseases associated with SRH, affirmed that *women and girls* have raised concerns that in public health institutions the wait time for a PAP test,ultrasound, mammography and diagnostics is extensive, therefore encourages women and girls to seek services in the private health sector. This represents an additional barrier for women and girls with economic difficulties and increases therisk of late diagnosis. NGOs further assert that women and girls diagnosed with malignant diseases wait too long for aconsultation with the oncologist, or for receiving chemotherapy or radiation, therefore treatment may not be as effective as the disease has rapidly progressed.

From the letters that have been addressed[132] by the OP, related to information, education and the number of women and girls who have received cervical screening and breast screening services at the MFMCs (in 29 municipalities) and at the relevant Municipal Directorates (in 9 municipalities[133]), answers received by the MFMCs[134] identified that SRH promotion and education is predominately performed by the consultant doctor[135] or the family doctor.

MoH[136] has announced that it has developed promotional activities targeting the prevention of cervical and breast cancer. During 2021, a pilot program for cervical cancer screening was implemented in several municipalities. Promotion activities for the prevention of cervical and breast cancer in this pilot program included awareness-raising lectures and videos anddistribution of brochures and information materials. The level of engagement in the pilot program was measured by the number of women and girls who received screening services, pre- and post-quizperformed during the awareness-raising lectures, and involvement in the videos and infographics distributed on social media.

As part of the *Inquiry*, the OP has asked the NIPHK[137] whether the breast cancer registry is functional, what is the number of cases, and do they have disaggregated data for cancer cases based on age, ethnicity, place of residence, socio-economic status of those affected by these diseases. NIPH[138] has informed that the cancer registry is functioning on the basis of the reporting sheet of malignant diseases in Excel format (data in Table 10[139]) and they have disaggregated data for cancer cases only based on age and place of residence.

[131]Appendix 2- List of interviewed NGOs, which represent different communities and marginalized groups both nationally and in terms of gender, disability, youth, women/girls with a difficult socio-economic situation
[132]Appendix 1 - List of letters addressed to the HCMF and Directorates for Health and Social Welfare
[133]Based on Law no. 03/L-40 on Local Self-Government, article 17, point j) [Individual competences]; Article 19 [Extended municipal competences] paragraph 19.1., as well as Law no. 04/L-125 on Health, article 18 [Primary health care] paragraphs 3 and 4, the letters are addressed to the municipal directorates of health and social welfare
[134]See which MFMCs have returned answers, in Table 6, represented by the answers received by them, according to the respective municipalities
[135]The term consultant, according to the answer from the MFMC, means the gynecologist, where present
[136]Letter of the MOH, dated March 21, 2022, no. 98, addressed to the OI, as a response to the OI's letter, dated March 4, 2022, no. 317/2022
[137]the letter of the OI addressed to NIPHK dated August 22, 2022, no. 1261/2022
[138]The letter of NIPHK, dated September 6, 2022, no. 782, addressed to the OI, as a response to the OI's letter, dated August 22, 2022, no. 1261/2022
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Table 10. The number of cases of cervical, ovarian and breast cancer			
Year	**CA of the breast**	**CA of the cervix**	**CA of the ovaries**
2019	**994**	**142**	**99**
2020	**780**	**108**	**73**
2021	**955**	**130**	**106**

OI has addressed a letter to UHCSK[140], related to the number of services offered for cervical and breast screening. UHCSK[141] has sent data on the services provided related to cervical and breast screening for PAP test, ultrasound, mammography, CT, radiography (see Table 11).

Table 11 The number of women and girls who have performed PAP test and screening of the cervix and breast in 2019, 2020, 2021, in health institutions within UHCSK (Data are missing from general hospitals in Gjakova, Mitrovica, Mental Health Centers with Homes for Community Integration in Prishtina and Peja, Center for Integration and Rehabilitation of Chronic Psychiatric Patients)[142]					
Cervical screening and PAP Test	Testing (total)	Breast ultrasound	Mammography	CT	Radiography
12 273 services	**95 620 patients**	**110 050**	**7 547**	**60**	**124**

Toobtain accurate data on persons diagnosed with cancer, it is important to have a registry of cancer cases. According to the WHO, the cancer registry should be more focused on collecting qualitative data than quantitative ones. The cancer registry includes the person's identification (including age and sex), ethnicity, date of incidence, location and histology of the tumor and the basics of diagnosis. Other data, which is extremely useful, is the degree of the disease (stage) and survival outcomes. Thus, they are valuable for the evaluation of National Cancer Control Programs.[143]

Narrative 4.

Following my breast problems, I visited the doctor. Initially, the doctors told me that I did not need any tests, since I was young. After my insistence, I did the tests, but the doctors in the public and private sectors have not been able to read them or give me approximate indications for the disease.

I have been continuously instructed to carry out additional tests, without any information about what is happening to me. Frightened, I was forced to seek treatment abroad. With the same test results, I was diagnosed with breast cancer. I was operated abroad and continued to be treated and I am still under the supervision of the oncologist there.

[140] OP's letters to UHCSK, on 19/08/22, with no. protocol 1253 and on 19/10/22, with no. protocol 1662. See annex I.
[141] The answer of UHCSK, November 7, 2022, with Protocol no. 463
[142] Ibidem.
[143] https://www.emro.who.int/noncommunicable-diseases/information-resources/cancer-registry.html

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A woman, 30 years old, with secondary education, in a rural area, with average economic status

Although there have been awareness-raising campaigns regarding cancer, the **OI points out** that the lack of information and education about the reproductive system, breast cancer and other cancers, means the population are not well informed causing health literacy challenges, thus resulting in missed opportunities for cancer screening and thefore late diagnosis of malignant diseases of reproductive tract (breast, cervical and ovarian cancer).

OI considers that the health system's difficulties, in terms of physical infrastructure; lack of human resources; delays in providing necessary services; occasional lack of therapy for the treatment of malignant diseases of the reproductive system; the impossibility to carry out all the necessary tests for these diseases discourages the initiatives of women and girls for early check-ups. This ultimately results in the inability to ineffectively prevent breast, uterine and ovarian cancer or at least diagnose these diseases at an early stage.

Consequently, the lack of prevention and early diagnosisof cancer, and shortage of necessary therapy ultimately is a violation of life, according to Article 2 of the ECHR. The lack of therapy and workforce shortages, affects the delay in the provision of services resulting in unwell patients not receiving treatment in a timely manner, further suffering of patients. These barriers can be avoided, hencealarming for the violation of Article 3 of the ECHR, which prohibits inhuman and degrading treatment.

The Ombudsperson **finds** that delays in timely diagnosis and treatment, long waiting lists for treatment, occasional shortage of adequate therapies, lack of patient centred care, undignified treatment due to the absence of necessary treating rooms, lack of privacy and confidentiality, the distance from the residence of women and girls to the Oncology Clinic; all constitute a violation of human rights for access to dignified, quality, equitable and timely health services, which are essential for the realization of rights.

The OI **emphasizes** that one of the principles of health care is the prevention and early detection of diseases through health promotion, detection and multi-sectoral public policies for improving health.[144] The responsibility of providing information, education and services for prevention and early detection, falls on the PHC.[145] Hospital, outpatient, diagnostic, therapeutic, and rehabilitative services fall under the SHC[146], while the provision of advanced health care falls on the THC[147].

In addition, the OI **recalls** that a preventive measure for cancers caused by the Human Papilloma Virus (HPV)[148], is also immunization. Immunization with the HPV vaccine, initially focused on

[144]Law No. 04/L-125 on Health, Article 5, Paragraph 1.7 https://gzk.rks-gov.net/ActDetail.aspx?ActID=57848
[145]Ibid., Article 18
[146]Ibid., Article 19
[147]Ibid., Article 21
[148] https://www.cdc.gov/hpv/index.html

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girls and boys, before they are sexually active[149], would affect the reduction and consequences of cervical cancer and other types of cancers caused by HPV.

The OI **considers** that a cancer registry with complete data, as envisioned by the WHO, would precede the proper drafting of the National Cancer Control Program. The program would influence the orientation of adequate intervention measures (information, education, prevention, treatment) to reduce the number of people affected by malignant diseases, including malignant diseases of the reproductive system and breast cancer. This would enable accurate data regarding the number of those diagnosed (gender, age, place of residence, social status, ethnicity etc), the geographic extent of cancer, and the services provided during treatments. A complete registry with data would convey the incidence and mortality and this would contribute to the design of targeted prevention and treatment programs.

Ombudsperson **recommends** the following:

Ministry of Health

- *To draft policies for the development of promotional activities for the prevention and early detection of cervical, ovarian and breast cancer*
- *To draft, without further delay, the National Cancer Control Program in Kosovo*

National Institute of Public Health of Kosovo

- *To complete and update the Cancer Registry, according to WHO standards.*
- *To include the Human Papilloma Virus (HPV) vaccine in the national vaccination calendar.*

University Hospital and Clinical Service of Kosovo

- *To improve the infrastructure in the Oncology Clinic, in accordance with the needs and demands of patients, during the reception of health services*
- *To plan and provide the necessary tools and medications for diagnosis and treatment of patients with malignant diseases, including those affected with cancer of the uterus, ovaries and breast*
- *Within the framework of legal authorizations, to decentralize chemotherapy and counseling services, ensuring sufficient and adequate spaces and sustainable workforce. necessary professional staff.*

[149] https://www.who.int/news-room/fact-sheets/detail/cervical-cancer

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Access to contraceptive information and services

Universal access to effective contraception ensures that all adults and young people can avoid the adverse health and socioeconomic consequences of unintended and unplanned pregnancy and have a safe sex life

Major global initiatives, including the SDGs, the Global Strategy for Women, Children and Adolescents' Health, call for universal access to family planning services as a right of women and girls to a healthy life.[150]

On the other hand, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)[151] in its Article 12 defines the obligation of States Parties "*to take all appropriate measures to eliminate discrimination against women in the field of health care, in order to ensure, on the basis of the equality of men and women, access to health care services, including that which is related to family planning*." (paragraph 1).

Whereas Article 16 guarantees the right of women and girls to decide "*freely and responsibly about the number and time between births and also to receive the necessary information, education and tools that make it possible to exercise these rights*".

Furthermore, the CEDAW Committee, in General Recommendation 24, recommends to states to prioritize "*the prevention of unplanned pregnancies through family planning and sex education*"[152].

Access to contraceptive information and services promotes and contributes to family planning, reduces the number of unplanned pregnancies and adolescent pregnancies, as well as protects against sexually transmitted infections and diseases.

Contraception refers to the methods and tools used to prevent the conception of the egg cell and development of pregnancy, without being deprived of sexual relations.[153] To benefit from contraception advantages, individuals must be informed about the importance of using these methods and tools and have equitable access to these services.

Moreover, Article 12 of the Convention on Economic, Social and Cultural Rights[154], considersboth the biological and socio-economic preconditions of the individual, as well as the available resources of the state, when specifying what the notion of "*higher health standards*" means[155] (paragraph 1).

[150]Family Planning, A global Handbook for Providers, 2018 edition, Evidence-based guidance developed through ëorldëide collaboration Updated 3rd edition 2018, Ëorld Health Organization Department of Reproductive Health and Research &Johns Hopkins Bloomberg School of Public Health Center for Communication Programs Knoëledge for Health Project &United States Agency for International Development Bureau for Global Health Office of Population and Reproductive Health, see in: https://apps.ëho.int/iris/bitstream/handle/10665/260156/9780999203705-eng.pdf?sequence=1

[151] https://hrrp.eu/alb/docs/CEDAw-a.pdf

[152]CEDAW Committee, General Recommendation no. 24, accessible at: https://tbinternet.ohchr.org/Treaties/CEDAË/Shared%20Documents/1_Global/INT_CEDAË_GEC_4738_E.pdf

[153]Law no. 02/L-76 on reproductive health https://gzk.rks-gov.net/ActDetail.aspx?ActID=2506

[154]CESCR, Article 12. 1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

[155]CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12) Adopted at the Twenty-second Session of the Committee on Economic, Social and Cultural Rights, on 11 August 2000 (Contained in Document E/C.12/2000/ 4)

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"*Reproductive rights are based on the right of couples and individuals to decide, without discrimination, without coercion and without violence, if they want to have children, how often and when they want to have children, and to have the necessary information and tools to get such decisions. This is also related to their right to the highest standards for SRH.*"[156]

The basis for the highest standards should interweave health system standards and health-related evidence-based standards.

The organizational principles and standards on which the framework that makes possible the enjoyment of human rights in the provision of contraceptive information and services, according to WHO[157], is based on:

Non-Discrimination in providing contraceptive information and services

Availability of contraceptive information and services

Accessibility of contraceptive information and services

Acceptability of contraceptive information and services

Quality of contraceptive information and services

Informed Decision-making about the provision of contraceptive information and services

Privacy and confidentiality in the provision of contraceptive information and services

Participation in providing contraceptive information and services

Responsibility in providing contraceptive information and services

This inquiry has considered this framework of principles and standards and has attemptedto highlight the real situation in Kosovo.

The responsibility of providing contraceptive information and services in Kosovo falls on the three levels of health care: **primary** (PHC), **secondary** (SHC) and **tertiary** (THC)); however, the main burden falls on the MFMCs, which belong to the PHC.

For the purposes of this Inquiry on SRH rights with a focus on access to information and services on contraception, abortion and post-abortion care, as well as maternal health care, we have contacted the MFMCs in 29 municipalities[158]. Letters have been addressed to nine municipalities[159], to the relevant Directorates of Health.

[156]See Declaration of the International Conference on Population and Development (ICPD) - Egypt, September 3-4, 1994, paragraph 7.3,https://www.unfpa.org/sites/default/files/event-pdf/icpd_eng_2.pdf
[157]Framework for ensuring human rights in the provision of contraceptive information and services, page 2.https://apps.ëho.int/iris/bitstream/handle/10665/133327/9789241507745_eng.pdf
[158]See Appendix I, List of authorities to which OI letters were addressed, from points 7 to 35 (MFMCs in the municipalities: Prishtina, Obiliq, Lipjan, Podujevë, Prizren, Gjilan, Ferizaj, Drenas, Kaçanik, Malishevë, Suharekë , Southern Mitrovica, Vushtrri, Skenderaj, Novobërde, Rahovec, Shtime, Junik, Istog, Deçan, Fushë Kosovë, Gjakovë, Kamenica, Dragash, Han i Elezit, Pejë, Klinë, Mamushë.
[159]According to Law no. 03/L-40 on Local Self-Governance, article 17, point j) [Individual competences]; article 19 [Extended municipal competences] paragraph 19.1., as well as Law no. 04/L-125 for Health, article 18 [Primary health care] paragraphs 3 and 4, the letters have been sent to the Municipal Directorates of Health and Social Welfare in: Graçanicë, Northern Mitrovica, Zveçan, Leposaviq, Ranillug, Zubin Potok, Partesh, Kllokot and Shtërpce.

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As part of the inquiry, the OI has asked the MFMCs about the number of services related to family planning and gynecological visits and consultations.

From the letters received, 17 MFMCs have not provided information on whether they offer family planning services. Of the MFMCs that have responded, 3 of them emphasize that they provided a small number of these services, while 9 of them affirm that they provided these services for the period for which they were asked (2019, 2020, 2021).

In relation to the services they have provided, the MFMCs have announced that promotion, education, counseling, family planning, [...][160]*are carried out during the visits at the consultant doctor or the family doctor.* In their answer, attention is drawn to the fact that health services, specifically services related to contraception, including information, have stalled since the beginning of the pandemic (2020), despite the increasing needs for these services.

Considering theanswers provided and facting, many MFMCs did not provide responses, it is understood that the MFMCs do not play an initiating role in fulfilling their obligations. Information is provided mainly when there are requests from the women or adolescents themselves, but there is no initiative from the health personnel themselves in providing information regarding the importance of contraception and the appropriate safe use of contraceptive methods. Only one of the MFMCs announces that it has drafted a report on the evaluation of the quality of the health services provided, where the SRHs are also included. Other MFMCs have not announced whether they will draft a quality assessment report of the services they offer.

The information received during the face-to-face interviews, providesan overview similar to the official data from which it can be concluded that women and girls do not have enough information about family planning and contraceptive use. Also, they are not sufficiently informed about the importance of gynecological consultations and visits, at all stages of life. This is reflected by the following data (see Figure 15 and Figure 16):

Fig. 15. Have health professionals informed you about contraceptives?

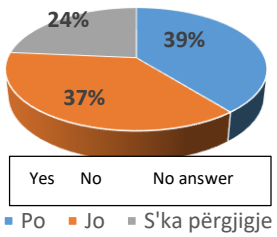
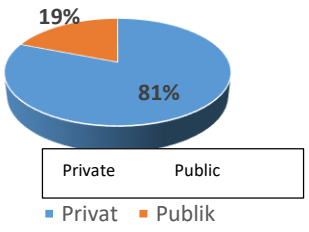


Fig. 16. Where did you obtain contraceptives: private or public health institutions?



Women and girls have emphasized the difficulties they face when seeking information about contraception, about the type of services offered, methods of contraceptives on the list of essential

[160]Other components of the services to be offered, according to the responses from the MFMCs, are presented in the treatise on maternal health in this report.

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drugs (condoms, spirals, emergency tablets, etc.) and accessibility and availability of contraceptivesfrom PHC pharmacies.

Narrative 5.

*"I went to the doctor at the MFMC in the city where I live, to be informed and advised on how to get pregnant. I am in a relationship with a guy and we both want to have a baby. I left there indignant and disappointed, since the doctor told me, "**you can't get pregnant because you have a disability and you can die during childbirth, because your body can neither carry the fetus, nor the birth process**". The doctor didn't even tell me to undergo any analysis or test, but as he saw that I had a disability, he told me "you should not get pregnant"*

A woman with physical disability, 31 years old, with secondary education, unemployed, rural area.

In the OI's questions addressed to all MFMCs, whether they have standard operating procedures for the provision of SRH, almost all MFMCs have affirmed that they do not have standard operating procedures for the provision of SRH. In their absence, a MFMC has claimed to work based on the WHO clinical guidelines for Antenatal Care and Family Planning.

OI estimates that the lack of standard operating procedures as well as the lack of guidelines and clinical protocols, adapted to the health system in the country and the socio-economic context, makes it difficult to provide and receive contraceptive services and referral for contraceptives.

Ombudsperson **recommends** the following:

Ministry of Health

- *To draft the Standard Operating Procedures (SOP) for SRH, defining the steps according to the responsibilities, competencies and levels of health care*
- *To draft Guides and/or Guidelines and Clinical Protocols (GCP)* on family planning in PHC.

An overview of the situation of needs and requirements for contraceptives in Kosovo is provided by MICS 2019-2020 in Tables 9 and 10[161] (the authenticity of table TM.3.3., from the MICS publication has been preserved, and technically adapted for practical reasons).

These two tables below show levels of unmet and met needs for contraception and the fulfilled demand for contraception for women and girls who are currently married or cohabiting.

[161]Multiple Indicator Cluster Survey in Kosovo (Multiple Indicator Cluster survey) MICS 2019-2020, Albanian version, p. 125 and 126 https://mics-surveys-prod.s3.amazonaws.com/MICS6/Europe%20and%20Central%20Asia/Kosovo%20under%20UNSC%20res.%201244/2019-2020/Survey%20findings/Kosovo%20%28UNSC%201244%29%20%28National%20and%20Roma%2C%20Ashkali%20and%20Egyptian%20Communities%29%202019-20%20MICS%20SFR_Albanian.pdf

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Table 12

Table TM.3.3: Need and demand for family planning (currently married/in union)

Percentage of women age 15–49 years who are currently married or in union with unmet and met need for family planning, total demand for family planning, and, among women with need for family planning, percentage of demand satisfied by method of contraception, Kosovo, 2019–2020

	Unmet need for family planning			Met need for family planning (currently using contraception)			Total demand for family planning			Number of women currently married or in union	Percentage of demand for family planning satisfied with:		Number of women currently married or in union with need for family planning
	For spacing births	For limiting births	Total	For spacing births	For limiting births	Total	For spacing births	For limiting births	Total		Any method	Modern methods[1]	
Total	**3.7**	**4.7**	**8.4**	**19.8**	**46.9**	**66.7**	**23.5**	**51.6**	**75.1**	**3,233**	**88.8**	**12.5**	**2,428**
Area													
Urban	3.3	5.2	8.4	19.5	48.3	67.8	22.8	53.5	76.2	1,326	88.9	14.5	1,011
Rural	4.1	4.3	8.4	19.9	46.0	65.9	24.0	50.3	74.3	1,907	88.6	11.1	1,418
Age													
15–19	(27.4)	(3.7)	(31.2)	(22.8)	(6.8)	(29.6)	(50.2)	(10.5)	(60.7)	38	(*)	(*)	23
15–17	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	12	(*)	(*)	9
18–19	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	26	(*)	(*)	14
20–24	11.0	4.1	15.1	48.5	5.0	53.5	59.5	9.1	68.5	197	78.0	4.6	135
25–29	8.9	2.3	11.2	47.9	16.4	64.3	56.8	18.7	75.6	480	85.1	8.0	363
30–34	6.2	5.9	12.1	30.5	34.1	64.6	36.7	40.0	76.7	576	84.3	11.3	442
35–39	1.4	5.1	6.4	16.3	59.1	75.5	17.7	64.2	81.9	583	92.1	15.7	477
40–44	0.2	5.5	5.7	4.3	69.6	73.9	4.6	75.0	79.6	680	92.8	15.1	542
45–49	0.2	4.5	4.6	0.6	60.6	61.2	0.7	65.1	65.8	678	93.0	13.9	447
Education													
None	1.1	5.1	6.2	15.4	57.2	72.6	16.5	62.3	78.8	106	92.1	11.1	84
Primary	1.7	3.9	5.6	11.2	54.7	65.9	12.9	58.5	71.4	132	92.2	16.8	94
Lower secondary	2.7	4.8	7.5	11.7	58.8	70.5	14.3	63.6	77.9	1,351	90.4	12.4	1,053
Upper secondary	4.7	4.8	9.5	24.2	39.4	63.6	28.9	44.2	73.1	946	86.9	13.1	692
Higher	5.3	4.3	9.7	31.7	31.1	62.8	37.0	35.4	72.5	698	86.7	11.4	506
Functional difficulties (age 18–49 years)													
Has functional difficulty	2.1	4.5	6.6	7.5	54.0	61.5	9.6	58.5	68.1	291	90.3	17.9	198
Has no functional difficulty	3.8	4.7	8.5	21.0	46.4	67.3	24.8	51.0	75.8	2,930	88.8	12.1	2,221

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Table 13

Table TM.3.3: Need and demand for family planning (currently married/in union)

Percentage of women age 15–49 years who are currently married or in union with unmet and met need for family planning, total demand for family planning, and, among women with need for family planning, percentage of demand satisfied by method of contraception, Kosovo, 2019–2020

	Unmet need for family planning			Met need for family planning (currently using contraception)			Total demand for family planning			Number of women currently married or in union	Percentage of demand for family planning satisfied with:		Number of women currently married or in union with need for family planning
	For spacing births	For limiting births	Total	For spacing births	For limiting births	Total	For spacing births	For limiting births	Total		Any method	Modern methods[1]	
Ethnicity of household head													
Albanian	3.2	4.4	7.6	20.6	48.7	69.3	23.9	53.1	76.9	2,923	90.1	12.3	2,249
Serbian	10.5	7.9	18.4	9.2	9.1	18.3	19.6	17.0	36.7	120	(49.9)	(9.7)	44
Other ethnic groups	7.5	7.2	14.8	13.3	43.1	56.5	20.9	50.4	71.2	188	79.3	17.7	134
Missing	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	2	(*)	(*)	2
Material deprivations													
Three or more	4.5	5.0	9.5	16.6	47.7	64.3	21.1	52.7	73.8	1,414	87.2	11.5	1,044
One or two	3.2	4.6	7.8	20.6	47.6	68.1	23.8	52.1	75.9	933	89.7	12.9	708
None	3.2	4.3	7.5	23.9	45.0	68.9	27.1	49.3	76.4	886	90.2	13.7	676
Wealth index quintile													
Poorest	4.5	4.6	9.1	16.5	48.2	64.6	21.0	52.8	73.8	663	87.6	14.2	489
Second	4.3	4.3	8.5	17.7	50.3	68.0	22.0	54.5	76.5	653	88.8	9.3	499
Middle	4.9	5.1	9.9	21.5	42.3	63.8	26.4	47.4	73.8	631	86.5	10.3	465
Fourth	3.0	4.9	7.9	21.3	45.4	66.7	24.3	50.3	74.6	642	89.4	14.0	479
Richest	2.1	4.6	6.7	22.0	48.3	70.3	24.1	52.9	77.0	644	91.3	14.6	496

[1] MICS indicator TM.4 – Need for family planning satisfied with modern contraception; SDG indicator 3.7.1 & 3.8.1

( ) Figures that are based on 25–49 unweighted cases

(*) Figures that are based on fewer than 25 unweighted cases

In Kosovo, contraceptives are included in the list of essential medications. Regarding the supply of medication from this list andthe data[162] provided by the MFMCs, it is shown that 22 MFMCs have been supplied by MoH with SRH medication, including contraceptives. However, the supply has not always been made in accordance with the requirements. Mainly the supplies are with contraceptive tablets levonorgesterol tablets, ethinylestradiol, emergency contraceptive, injectable contraceptive, interuterine (IU) spiral, condoms, andsome drugs from the essential list for the treatment of sexually transmitted infections. Meanwhile, 7 MFMCs state that they have not been supplied with essential SRH medications[163].

In this regard, we have been informed by the responsible officials of the MoH that the list of essential drugs includes a certain number of contraceptives, but only levonergesterel (emergency) and ethinylestradiol + levonergesterel (combined contraceptive) are available. The MoH states that the supply of contraceptives, as with all other drugs from the list of essential drugs, is based on the requests accepted by public health institutions. It has been emphasized that for a long time there is a lack of requests for emergency contraceptives because health personnel are reluctant to prescribe them.[164]. Since the administrative chain of the order has the MFMC as the source of the request,

[162]See Appendix I, List of authorities to which the Ombudsperson's letters are addressed, items 7 to 35.
[163]See Appendix I, List of authorities to which the Ombudsperson's letters are addressed, items 7 to 35.
[164]Meeting with representatives of the Ministry of Health, August 25, 2022

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the supply by the MoH is made according to the requests received from the MFMC (types and quantity).

In the public hearings held for the purposes of this Inquiry, it was understood that the medical staff at the MFMC when faced with difficulties in responding to requests for diseases that can acutely endanger the lives of patients (diabetes, cardiovascular diseases, etc.), requestedas a priority addressed to the MoH, drugs that require a quick medical response. In this way, contraceptives, and eventual drugs for SRH from the essential list remain are not prioritised or are not ordered at all. Concern has also been expressed about the referral of patients by doctors to private pharmacies, as well as for contraceptives that are (or should be) in the pharmacies of MFMCs.

Narrative 6.

"After the birth of my third child, I went to the MFMC, in the city where I live, to have an IUD inserted. The doctor referred me to a private pharmacy to buy it "go buy one and we will insert it"

A woman aged 38, unemployed, with secondary education, middle economic status, urban area

Other cases were also mentioned when the MFMCs had available contraceptives, but did not prescribe them, or did not refer the service seekers to the MFMC pharmacy to obtain them for free. In some cases, after interventions by third parties (civil society, people who know how the health system works, journalists, etc.), who in one way or another monitor the health sector, those contraceptives have been offered.

Narrative 7.

"After the visit to the doctor at MFMC, the doctor gave me a prescription for medicine. When I went to get them from the pharmacist inside the building, they did not give them to me, saying that they are not available. I contacted the NGO where I received training and informed them that they did not give me the medicine. I called an NGO activist and together with her we asked for the drugs there. And then they found it, because now it was an NGO."

A woman (minority community), aged about 40, poor economic condition, rural area

The OI **finds** that the conflicting responses of the MoH and the MFMC regarding the ordering and supply of contraceptives from the essential drugs list reflect a lack of genuine communication and lack of coordination between the organisations. The lack of information and education, incorrect information, the non-proactive approach of health personnel, result in low demand for contraceptives from the population. Consequently, even the requests for supply of contraceptives from the MFMCs in the MoH do not reflect the demographic overview of the sexually active population.

OI considers that the unavailability of contraceptives in accordance with the requirements from the MFMCs, the non-requests from the MFMCs and their non-supply by the MoH, as well as the non-provision of contraceptives from the MFMCs (when they are in stock), represents a deviation

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from the principles and standards that uphold human rights and consequently resulting in a violation of human rights. The essential obligation of the state regarding the right to health is to ensure the availability, accessability and acceptance of quality health services, health information, services and contraceptives.

OI considers that unavailability of contraceptives in accordance with the requirements from the MFMCs, the non-requests from the MFMCs and their non-supply by the MoH, as well as the non-provision of contraceptives from the MFMCs (when they are in stock), represents a deviation from the principles and standards that ensure the respect of human rights and consequently cause their violation. The essential obligation of the state regarding the right to health is to ensure the availability, access and acceptance of quality health services, including information, services and contraceptives.

OI **considers** that, to address the barriers and resistance of adolescent women and girls accessing and using contraceptives (caused by prejudice and misinformation to use contraceptives), the health personnel must must play an essential role. They should take the responsibility in informing and educating people about the use of contraceptives, including the use of condoms by adolescents and men, as a contraceptive (which is included in the essential drugs list).

Ombudsperson **recommends** the following:

Ministry of Health

- *To effectively coordinate, plan and address the issue of contraceptive supplyfrom the list of essential drugs, in accordance with the number of sexually active population, and according to the requirements of the MoH*
- *To increase the number of profiled health inspectors in HI, as well as experts in the relevant professional fields, taking into account the levels of health care and the complexity of the supervision required (to fulfill the function of the HI, according to Article 2, paragraph 6, of Law no. 02/L-38 on the Health Inspectorate)*
- *To provide adequate working conditions for health inspectors, to fulfill the mandate of HI*
- *To fulfill its supervisory role in relation to HI and PI and to take necessary measures by law, in case of non-fulfilment of the respective mandates*
- *In cooperation with the Chamber of Doctors and the Chamber of Nurses, developtrainingon the provision of information and services for the SRH of the health staff to be incorporated in the training curricular framework.*

Health Inspectorate

- *To inspect health personnel in exercising a proactive role and providing quality contraceptive information and services, including the provision of contraceptives from the essential drugs list*

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- *To supervise the implementation of the referral, both for services and for contraceptives to ensure compliance with laws*
- *To address violations or challenges to the relevant authority, so health policies and budget allocations from the responsible authorities align with needs and goals*
- *To communicatethe findings of inspections transparent, through the publication of reports*

Pharmaceutical Inspectorate

- *To supervise the implementation of the referral for contraceptives, in terms of respect for laws, in addition to the health and professional dimension.*
- *to take action and, depending on the findings of the inspections, communicate public findings of the inspections.*

MFMC*s and* **the relevant health directorates,** in municipalities where there is no MFMC

- *To fulfill their legal obligation for health education and a proactive role in providing information, quality SRH services and modern contraceptives, through daily professional work and to document information via HIS in the patient's report*
- *To fulfill the legal obligation for information and education in the community, including SRH promotional and educational activities, as well as to use the website of the MFMC, as an information and education platform*
- *To plan and address the issue of contraceptive supply from the list of essential drugs, considering the requirements of the FMC and FMCl, andthe number of services, in accordance with the number of sexually active population that resides in the area covered by the MFMC*
- *To monitor the implementation of referrals by health personnel, both for services and for contraceptives, in terms of compliance with laws, in addition to the health and professional dimension.*
- *Seekers of SRH services who go to the Ministry of Health, should be informed about the contraceptives availableand the possibility of accessing them free of charge from the list of essential drugs. This should be supervised through stocktake, respectively the pharmaceutical stock management system, for all contraceptives.*

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Access to abortion and post-abortion care

Abortion is a pregnancy termination procedure that is considered a health intervention that can be managed by a wide spectrum of health workers.

Why is abortion treated separately from family planning and, therefore, also in this Inquiry?

The shortest and most concise answer is that abortion is not considered and cannot be used as a method of family planning. Therefore, abortion is not promoted[165]as a method for family planning, even though it is a guaranteed right for every woman or girl.

"In no case should abortion be promoted as one of the family planning methods. All governments and intergovernmental and non-governmental organizations are urged to strengthen commitments to women's health, address the health impact of unsafe abortion as a major public health concern, and reduce recourse to abortion through improved services and expanded for family planning. Prevention of unwanted pregnancies should always be given priority and every effort should be made to eliminate the need for abortion. Women who have unwanted pregnancies should have ready access to reliable information and sensitive counseling. Any measures or changes related to abortion within the health system can only be determined at the national or local level in accordance with the legislative framework in the country. In circumstances where abortion is not illegal, it must be safe. In all cases, women should have access to quality services for the management of complications that may arise from abortion. Post-abortion counselling, education, and family planning services should be provided promptly, which will also help prevent recurrence of abortion."[166]

According to the WHO, when an abortion is provided by skilled professionals, under appropriate sanitary conditions, it is a safe procedure, however if performed illegally, abortions are mostly unsafe and lead to high rates of complications.[167]

The General Assembly of the United Nations, in 1999, made a general review and evaluation of the implementation of the Program of the International Conference on Development and Population (1994) and stated that "in circumstances where abortion is not against the law, health systems should be trained, health service providers must be equipped, and measures must be taken to ensure that abortion is safe and accessible"[168]

Constitution of the Republic of Kosovo, in Article 26 [*Right to personal integrity*][169] puts forth a direct connection with bodily autonomy and reproductive health and guarantees that "*Every person enjoys the right to respect for his/her physical and mental integrity, which includes: 1) the right to make decisions regarding reproduction, according to the rules and procedures defined by law; 2) the right to have control over her/his body in accordance with the law*"; 3) *the right not to undergo*

[165]See Declaration of the International Conference on Population and Development (ICPD) - Egypt, September 3-4, 1994, paragraph 8.25, p. 58https://www.unfpa.org/sites/default/files/event-pdf/icpd_eng_2.pdf
[166]Ibid., paragraph 8.25, p. 58-59
[167]WHO, Safe abortion: technical and policy guidance for health systems (Second edition 2012)
[168] https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/855/64/PDF/N9985564.pdf?OpenElement
[169] https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702, Article 26

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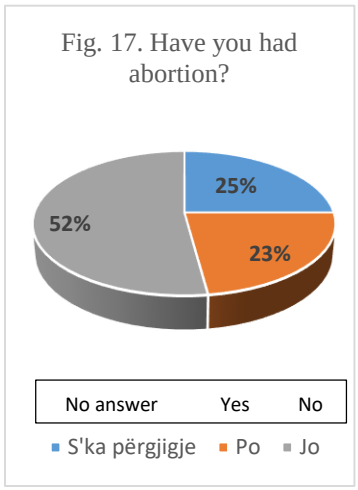
medical treatment against his/her will in accordance with the law"; 4) *the right not to participate in medical or scientific experiments, without her/his prior consent*".

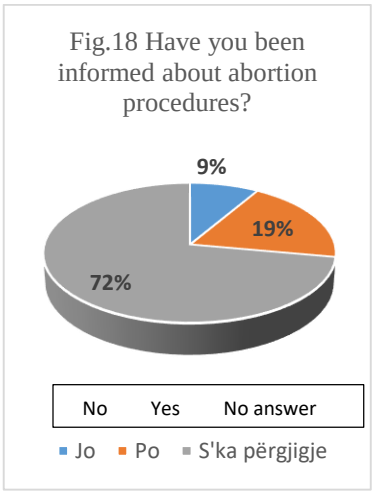
In line with the review of the UN General Assembly regarding the implementation of the Program of the International Conference on Development and Population (1994) and in accordance with the constitutional obligation "*Health care and social security are regulated by law*." (Article 51 [Health and social protection], our country has regulated the issue of abortion through Law No. 03/L-110 on Termination of Pregnancy[170] and with Law no. 02/L-76 on Reproductive Health.[171]

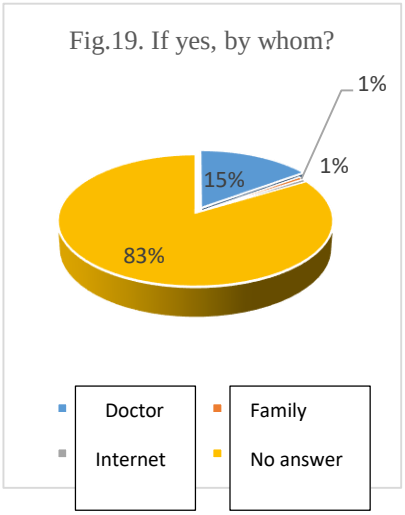
Termination of pregnancy is done only in licensed health institution, and perforomed by a registered obstetrician-gynecologist.[172]

The inquiry aimed to highlight the treatment of women and girls by health professionals in public and private institutions when they are referred for pre-abortion services, abortion and post-abortion care.

In the face-to-face interviews with women and girls, 9% out of 23% of those who claimed to have had an abortion (Figure 17) said that they were informed about abortion procedures (Figure 18), and only 15% of them received the information from the health personnel (Figure 19).







Statements provided by women and girls raised concerns about being treated anonymously while receiving abortion services, specifically the lack of privacy and confidentiality.

Women and girls were asked if they consider their privacy and confidentiality respected by health workers when they seek information and services. Their statements have shown particular concern regarding this issue, especially relating to gynecological check-ups, abortions or even births.

[170]This Inquiry refers to Law no. 03/L-110 on termination of pregnancy https://gzk.rks-gov.net/ActDetail.aspx?ActID=2624, since the amendment in January 2022, it only concerns the offence sanctions and harmonization with the respective legislation.
[171]This Inquiry refers to Law no. 02/L-76 on reproductive health https://gzk.rks-gov.net/ActDetail.aspx?ActID=2506since the amendment in January 2022, it only concerns the offence sanctions and the harmonization with the respective legislation.
[172]Law no. 03/L-110 on termination of pregnancyhttps://gzk.rks-gov.net/ActDetail.aspx?ActID=2624, Article 9.

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According to the women and girlsthe violation of privacy and confidentiality is more prevalent in health institutions in small towns, during gynecological visits or services of this nature, however general hospitals and OGC/UCCK are no exception.

Narrative 8.

When I went to perform the abortion at the public hospital, the door of the reception room was open the whole time. There were also other women, naked and waiting in line for a gynecological check-up. The nurse told me to undress for the checkup, in the same space where the other women were. In those moments, I felt like an exile. I felt very uncomfortable and ashamed.

A woman aged approximately30 years old, with secondary education, from a rural area.

Even NGOs consider disrespect of privacy and confidentiality, at all levels of the health service, to be concerning. They also consider it disturbing that women or girls from smaller municipalities face the violation of their privacy by predominately nurses, however doctors are no exception, especially when it comes to sensitive issues, such as abortion. This applies to both public and private institutions. In addition, violation of privacy occurs in cases where the patients performing abortion are minors or unmarried. Often, privacy violations stem from health/administrative staff working at the counters across all levels of the health service, other personnelwho have access to patient data or the patients themselves.

Referring to the public hearings, health professionals emphasized that when an abortion is performed, it is very important to take care of the emotional wellbeing of a patient and the appropriate information must be provided to women and girls about the methods, tools and importance of family planning. This is an obligation of health personnel towards a woman or girl who has had an abortion.

However, this does not occur frequently in the daily provision of services by health institutions.

Narrative 9.

I was 12 weeks pregnant when I realized that the baby growing inside me had problems and needed to be aborted. I received the information from two doctors in private clinics. According to them, the procedure of abortion with tablets had to be started at the UCCK.

On the first day at the UCCK, the staff who registered us behaved very badly with me and the other pregnant women. There, in the place where check-ups were taking place, personal questions were asked (including family diseases, age, marital status, number of abortions, etc.) and we were checked up next to other women. We have all heard each other's stories.

Then they would tell us to come another day, and then I would get 13 weeks pregnant.

On the day of the abortion, the Commission gives an assessment for performing the abortion and then you meet with a psychologist to discuss for 5 minutes about the ability to cope with the abortion.

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In the upper room, I was placed with another woman, who was also going to have an abortion with me, with pills. Again, zero privacy.

I had to buy the tablets myself. After the pain procedure started, a nurse would sometimes come and tell us <Now your concerns will go away>.

The woman in my room lost her baby in front of me and was shocked by the process.

I waited 7 hours for the abortion to happen and no one told me what to expect. The moment I aborted, the doctor came and started humiliating me. The 13-week-old fetus was placed in a jar that we bought together with my husband, according to the request of UCCK. After three days, during the check-up, it was discovered that there were remains of pregnancy in the uterus and I needed to be cleaned. The cleaning was awfully painful, quick and without warning. There, one of the nurses hit me in the stomach, telling me <shut up, you must not move>. In those pains, she asked me, do you want to bury the baby? It turned out that the baby (fetus) was in the same room, in that jar that I had bought, and was there for three days in a row. I still carry the trauma of the treatment today, after a year.

A woman approximately 30 years of age, with high education, living in an urban area, in good economic condition

OI **finds** that the insensitive behavior of health personnel, in cases of abortions, contradicts the commitments of International Conference on Population and Development (ICPD)[173], transformed into universal standards that are aspired to and must be followed by societies and states that respect human rights and freedoms.

OI **considers** that treatment with dignity, protection of privacy and confidentiality, protection of personal and health data, are guaranteed rights in health institutions, both public and private.

The protection of privacy and confidentiality of health data falls under the umbrella of Article 8 of the ECHR, as well as Article 23 [*Human dignity*] and Article 36 [*Right to privacy*] of the country's Constitution. Any disclosure of personal data, especially health data, without the consent of the individual to whom they belong, represents **a violation of the right to privacy**.

It is the duty of the state to supervise public and private hospitals, to take appropriate measures for the protection of patients' personal and health data. Likewise, the state has the obligation to implement such mechanisms that guarantee the respect of this right. When it is violated, the authorities are obliged to take punitive legal actions against the personnel causing the violation and to restore the violated right.

OI **finds** that one of the main reasons why *women and girls* hesitate and avoid regular gynecological check-ups is precisely the violation of privacy and confidentiality by medical personnel, without excluding managerial and administrative personnel.

[173]See Declaration of the International Conference on Population and Development (ICPD) - Egypt, September 3-4, 1994, paragraph 8.25, p. 58 https://www.unfpa.org/sites/default/files/event-pdf/icpd_eng_2.pdf

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Ombudsperson **recommends** as follows:

University Hospital and Clinical Service of Kosovo

- *To organize trainings in cooperation with the Agency for Information and Privacy, for all staff in SHC and THC, including managerial and administrative staff, related to the protection of the right to privacy and confidentiality of patients. This includes trainings that are awareness-raising in relation to the legal guarantees for the protection of this right and the consequences that the staff may faceif they violate this right*
- *To create suitable infrastructural facilities for receiving treatment with dignity and respecting the privacy of women or girls, during gynecological check-ups and abortion*

MFMC*s and* **the relevant health directorates,** in municipalities where there is no MFMC

- *To organize trainings in cooperation with the Information and Privacy Agency, for all staff at the PHC, including managerial and administrative staff, regarding the protection of the right to privacy and confidentiality of patients, including trainings that areawareness-raising in terms of legal guarantees for the protection of this right and the consequences that the staff may face, if they violate this right.*

Narratives gathered from women *and girls* identified the trauma, suffering andhealth consequences experienced when going through an abortion. Unfortunately, women and girls fail to identify the need for psychological treatment for the trauma during the abortion and the The lack of general health education and culture on emotional and psychological problems, has a strong reflection on how the population perceives social and emotional wellbeing, and in this case the consequences of experiences and trauma from abortion.

Of the women and girls interviewed (140 women) during the Inquiry process, 48% of them did not answer the question of whether they needed psychological services after abortion or childbirth (see Figure 20). Of those who affirmed that they sought psychological services, 85% stated that they were not informed by the health personnel where to seek access to psychological services (see Figure 21.) Meanwhile, those who received this information about where they could access these services, they mentioned psychological support services are offered through the private sector (see Figure 22).

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Fig.20. The need for psychological services after childbirth or abortion

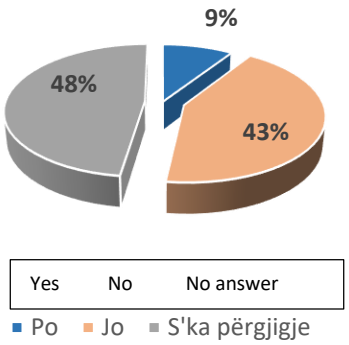


Fig. 21. If yes, have you been informed by health personnel where you can seek these services?

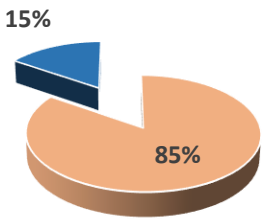
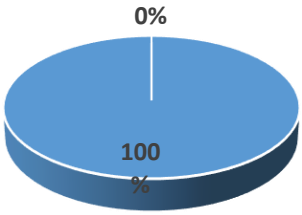


Fig. 22. If so, where did you get these services, in the private or public sector?



It is understood from the *Inquiry* that most women and girls have not been treated with dignity in public health institutions in Kosovo, especially in cases of abortion and post-abortion care.

Based on the WHO definition of mental health as "a state of well-being in which each individual realizes his own potential, copes with the normal stresses of life, works productively and fruitfully and is able to contribute to his community[174]", we can understand the importance of addressing the emotional needs women and girls may have during or after experiencing an abortion.

OI **emphasizes** that the state is obliged to play a proactive role and provide access to information and care before, during and after abortion. It is the state's obligation to offer a wide range of modern, safe methods of contraceptives, through the essential drugs list or in the market.

The OI **states** that the state has an obligation to fulfill positive duties to identify the need women or girls may have in relation to the abortion process and coping with circumstantial emotional and psychological difficulties after the abortion, and to inform women and girls about the services available to support their needs and concerns.

Ombudsperson **recommends** as follows:

Ministry of Health

- *Through a special Circular, MoH must request health institutions in the field of SRH to provide information and post-abortion care services, including information on modern contraceptive methods and their provision, as well as psychological support services during the abortion process (before and after abortion)*

MFMCs, the relevant health directorates, in municipalities where there is no MFMC, as well as the **UHCSK**

- *To provide advice and modern methods of family planning after abortion and to document in the patient's reports and files/cards.*

[174] https://srhr.org/abortioncare/chapter-1/human-rights-including-a-supportive-framework-of-law-and-policy/

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Women and girls have also alluded to inequitable treatment. According to their assertions, this has been evident in terms of favored attention and care for service seekers based onfamily, social acquaintances, influential persons, stable economic condition or other relations between health personnel and patients. It has been emphasized that the delivery of respectful treatment for certain patients has come from the health personnel andadministrative or technical staff.

Narrative 10.

With the doctor's instructions, I went for an abortion at a public hospital, where I did not receive proper treatment from the medical staff and I was verbally insulted, too. Finding myself in such a situation, I contacted a friend, doctor at UCCK. After that, the approach of the health personnel has changed significantly for the better.

A woman aged approximately45 years old with high education, middle economic status, living in an urban area

Women and girls have performed abortions, both in public and private institutions, either because of their health condition, or because of their decision where to receive on the service. *Women and girls* have positively evaluated the services received in the private sector and reported they were costly and this places them in financial difficultyand sometimes even unpleasant family situations.

Some other women claimed that they had bad experiences regarding treatment by medical personnel in public health institutions. Because of this poor treatment, they attended private clinics to have an abortion.

Narrative 11.

During my last pregnancy, I had other health problems, which were noticed by the doctor in the private clinic, where I had the check-ups. With the instructions of this doctor, I went to the public hospital. There, as early as the first check-up, the doctor told me: <What pregnancy? Your child has died.>, which worried me a lot. I stayed there for 24 hours. Although my blood pressure was 210 to 110, the nurse did not treat me with therapy, but addressed me <are you not used to high blood pressure?>. Meanwhile, after the doctor's visit, I was informed that I have to have an abortion by surgery. Since my condition had worsened, with the arrival of my husband and with his approval, I decided to get out of there and went to a private practice, where I performed the abortion, without any complications. I continue to visit the same doctor in a private clinic, because from the experience in the public hospital, I no longer go there, even if I decide to have another pregnancy.

A woman, approximately 30 years old, with secondary education, and in a poor economic situation

Women and girls have emphasized that often the personnel who provided services in the private sector were the personnel who provided services in the public health sector. However, the behavior and treatment by the same persons has been inappropriate and derogatory in the public health sector, while in the private sector, there has been increased focus on patient centred care.

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The OI **finds** that the care received by a patient in the private sector is related to the attraction of the patient as a customer who pays for the service. However, the quality and deliver of the services offered in the private sector continue to remain insufficiently inspected by the health supervisory authorities.

In the request of OI addressed to HI regarding the data related to the supervision of institutions that provide health services in the field of gynecology and obstetrics, it is stated that there are over 3000 (three thousand) health institutions (private and public) that need to be inspected. The data provided below show that the number of inspections is extremely low.[175] (Table 14).

Table 14.
Data from the Health Inspectorate,
for inspections in public and private health institutions, in the field of gynecology and obstetrics

	Number of public health institutions	**Number of private health institutions**	**Number of Decisions (pronounced measures)**
2019	**6**	**19**	**16 Decisions for Public Health Institutions**
2020	**4**	**23**	**4 Decisions for Public Health Institutions**
2021	**3**	**15**	**1 Decision for Public Health Institutions**

Meanwhile, from the inspections carried out based on citizens' complaints or other investigative bodies, the data sent by HI is confusing. What is clearly observed is the very small number[176] of inspections, in both sectors (see Table 15).

Table 15.
Data from the Health Inspectorate
The number of inspections in public and private health institutions, based on citizen complaints, information from the media, requests from investigative bodies

2019	**25 in total**
2020	**27 in total**
2021	**15 in total**

From these inspections, according to IS, the most frequent violations found in the private sector were:

- *suspicious death of patients during the reception and health treatment in the field of gynecology and obstetrics;*
- *termination of pregnancy and unfavorable conditions for abortions;*
- *inappropriate behavior and insensitive treatment by health professionals, referral of the patient to perform a health service (gynecological and obstetrics) in a public institution to*

[175]HI's letter, received on 07/26/22, with protocol no. 256
[176]Ibidem.

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a private one, etc.[177]

Regarding the number of *women and girls* who have sought advice or services for the termination of pregnancy, the OI has addressed all the MFMCs in the country on this matter.[178] The responsesshow that the number of women and girls who have sought advice or services for termination of pregnancy in the last three years is not large. Emphasis is placed on the fact that they this data has not being recorded seperately, since they consider it within the framework of other services offered.

NIPHK, in the answer given to OI, claims that "*they do not possess data*"[179] for the number of abortions performed in private hospitals and clinics, for the years 2019, 2020 and 2021. Meanwhile, regarding OGC, they claim that "*they do not have data, but they can only be obtained from the morbidity according to the diagnoses of abortions*."[180]

When asked about the reasons for the lack of datNIPHK affirms that this data "are not reported as separate, therefore they are not aggregated; we do not have separate reports of abortions, the only reports that are separate are the ones that foreseen by the AI"[181]

Meanwhile, the response received by UHCSK is presented in Table 16.[182]

Table 16. **Data from UHCSK for the period 2019 / 2020 / 2021**	
The number of women who have sought advice on termination of pregnancy	
947	
The number of *women and girls* who have received services in health institutions under the umbrella of UHCSK (Data are missing from general hospitals in Gjakova, Mitrovica, Mental Health Centers with Homes for Community Integration in Prishtina and Peja, Center for Integration and Rehabilitation of of Chronic Psychiatric Patients)[183]	
Elective termination of pregnancy	**912**
Induced termination	**2 094**
After spontaneous abortion	**1 201**

[177]Letter of HI, dated 26/07/22, with protocol no.256, p. 2 - **Clarification**: the text does not include two violations asserted by HI for the provision of health services in the field of SRH: "services by non-Kosovar doctors in violation of the legal provisions in force, as well as the provision of health services by unlicensed institution or with an expired license; violation regarding the use/transfer of donor cells in 2 or more women and not only in one patient, the lack of the total number of embryos obtained with the number of transferred, frozen and destroyed embryos of the patient, consent of the psychologist, the lawyer's consent, the doctor's signature, the absence of a special register for the donor (donor), the absence of a unique coding system from the donor to the recipient and vice versa, patient files are laacking patient history, psychologist's consent, lawyer's consent, consent for IVF procedures, consent for embryo transfer, embryological list, total number of embryos obtained with the number of embryos transferred, patient's signature; there are no mandatory tests for contagious diseases and sexually transmitted diseases; as well as advertising, promotion, distribution of billboards for the IVF service on social networks, etc. - to maintain the focus as much as possible on the topics that have been the focus of this staudy." This aspect of the SRH that is mentioned in the violations found by the HI, may in the future be handled by the OI, as a special Inquiry.
[178]Out of 33 responses by the MFMCs, 20 have answered this question.
[179]The letter of NIPHK, on 08/09/22, with protocol no. 342, p. 5.
[180]Ibidem.
[181]NIPHK, in the response sent, did not specify which AI it is about, but following the logic of the answers given, it is observed that it is about Administrative Instruction no. 11/2013 on Health Information System (HIS) and reporting of statistical health data
[182]UHCSK's response, received on November 7, 2022, UHCSK's letter, on 07/11/22, with protocol no. 463 sent sent to OI
[183]Ibidem.

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From the interviews (140) conducted within this *Inquiry, women and girls* were asked if they had any abortion(s)? From the datat collected it is clearsom were reluctant to answer. This once again confirms the sensitivity of an abortion. Additionally, for responses, see Figure 23 and 24.

Fig. 23. Have you ever had an abortion?

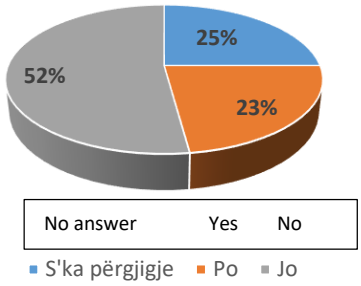
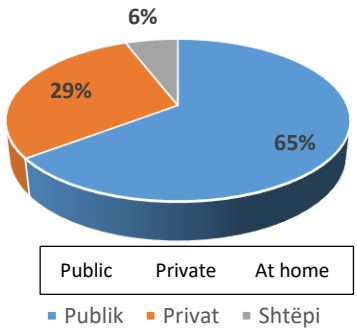


Fig.24. Where did you abort?



OI **notes** that the lack of data on abortions clearly indicates abortions performed in the public or private health sector are not reported. As a result, there is no complete data on safe abortions, the causes of abortions, eventual deaths as a result of the abortionor the consequences and lack of care during and after the abortion. This means that in the broad concept of what is meant by public health, health care, and specifically SRH, is not properly managed with by the state. Consequently, the policies that are developed cannot be considered data-based and therefore cannot be useful in improving the provision of services and treatment in relation to SRH, specifically for abortion in this case.

OI **emphasizes** that the lack of data on abortions is a particular concern and makes it impossible to identify the causes of abortions, accurately assess the needs that must be addressed through policies or strategies, adequate budget allocation, infrastructural conditions, as well as sufficient human resources to provide safe and quality abortion services and post-abortion care, including family planning.

Ombudsperson **recommends** as follows:

National Institute of Public Health of Kosovo

- *To fulfill legal obligations and responsibilities for data collection, processing and reporting, including disaggregated health data related to abortion and post-abortion care*
- *To design a special form (sheet) for reporting disaggregated data on abortion*

OI **notes** that, although MoH has approved several CGP for SRH, the Inquiry shows that there is no specific CGP for abortion and post-abortion care, which would integrate the aspects of care in all the necessary areas, to provide quality care and safe for abortion.

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Ministry of Health

- *To require from health institutions provision of services based on good medical practice (evidence-based services), according to the highest standards of physical and mental health, including SRH*
- *To draft evidence-based Clinical Guidelines and Protocols (CGP) on abortion, to provide quality and safe services, and to avoid eventual complications, during and after abortion*
- *To draft Standard Operating Procedures (SOPs) on abortion, to provide quality advice and services, and to avoid eventual complications, during and after abortion.*

Health Inspectorate

- *To inspect on a regular basis, the public and private health institutions that provide abortion services, regarding the conditions for safe abortion (accreditation of the institution, licensing of professionals, practical implementation of the conditions and criteria defined for abortion and post-abortion care) according to the legislation in power and international standards*
- *To supervise the implementation of CGP and Standard SOP and report to ensurethe findings transparent.*

OI **estimates** that the protection of women and girls from unsafe abortion is the state's obligation. The provision of SRH, including access to safe abortion, respects, protects and fulfills the enjoyment of the right to health.

In the meetings held with women and girls, it was also mentioned the unprofessional behavior of the health personnel, regarding the approach to them as patients.

Narrative 12.

"With the doctor's instructions, I went to the public hospital to undergo an abortion. There, the abortion was performed without anesthesia even though I had asked for it. The attending doctors told me: <Come on, it's a 5-minute process, let's not call the anesthesiologist because it's night time and he's at home>, even though it was 10:00 p.m. I underwent abortion without anesthesia.

A woman aged approximately 25 years old, with secondary education, unemployed, living in an urban area.

From the concerns expressed, it is understood that *women and girls* have not received adequate information from the health staff about the procedures regarding abortion or post-abortion health care and thepurpose of prescribed medications that are used. As a result, they said they felt scared and confused about their health and life.

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Among women and girls, there have been cases where treatment with dignity has been declared, including the provision of necessary information about the procedure to be followed and post-abortion care. However, even in these cases, women and girls have not been given adequate information about the possibility of obtaining contraceptives free of charge (in the MFMC), which serve to prevent unplanned pregnancies.

This passive behavior of health personnel in relation to the provision of information about contraceptives contradicts the principle that family planning should be promoted through safe and available contraceptives, but not through abortion, which is a guaranteed right, but should not serve as a family planning tool.

According to the WHO, globally, about 73 million induced abortions occur every year. Of this number, 6 out of 10 (61%) are unintended pregnancies, while 3 out of 10 (29%) of all pregnancies end in induced abortion.[184] Therefore, information, education and counseling for SRH are extremely important segments to prevent unplanned pregnancies, which potentially lead to abortion.

OI **finds** that the lack of advice and information regarding family planning methods in the institutions of the health sector in Kosovoto avoid unintended and unplanned pregnancies, continues to be concerning.

[184]World Health Organization (WHO), Abortion (25 November 2021), retrieved from https://www.who.int/news-room/fact-sheets/detail/abortion, on November 16, 2022, at 5:20 p.m.

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Maternal health care

According to WHO, maternal health refers to women's health before and during pregnancy, childbirth and the postpartum period.[185]Access to quality maternal care is an element of a woman's right to the highest attainable standard of health, as well as equality and non-discrimination.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)[186] in its Article 12 defines the commitment of states to "*provide women with appropriate services related to pregnancy, childbirth and the postpartum period, by offering free services where necessary, as well as adequate nutrition during pregnancy and lactation*"[187] (paragraph 2).

Women's health and well-being are important to every person, society, and country and are essential to achieving the Sustainable Development Goals (SDGs). Action to eliminate avoidable maternal mortality and morbidity before, during and after birth is necessary in all sectors and settings.[188]

Pre-conception stage is important for a mother to achieve optimal health throughout her pregnancy and includes the necessity of medical consultations and gynecological check-ups, to ensure for a safe pregnancy, thus preventing maternal morbidity and mortality.

From the information received by women and girls, we understand that they are not sufficiently informed about the importance and necessity of performing the necessary check-ups before conception. They claim that they start with medical check-ups as soon as they realize they are pregnant, but they did not know that the check-ups should be regular both before and during pregnancy.

However, even those few who have sought pre-conception services have encountered difficulties in obtaining them and at times have faced inhumane treatment.

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However, even those few who have sought pre-conception services have encountered difficulties in obtaining them and at times have faced inhumane treatment.

Narrative 13.

I accompanied my sister to the hospital where she had an appointment to undergo an intervention in the ovaries. When my sister had asked the nurses to insert the catheter with anesthesia, they refused to do so by saying < […], is this really hurting you?>

[185]https://www.who.int/health-topics/maternal-health#tab=tab_1
[186] https://hrrp.eu/alb/docs/CEDAw-a.pdf
[187]Ibid., page 8
[188] https://www.euro.who.int/__data/assets/pdf_file/0006/354921/3.1-SDG-Fact-sheet-Maternal-Health.pdf

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A woman, approximately 27 years old, with high education, and middle economic status, living in an urban area

The situation is even more serious for people with disabilities, who face violations of privacy and in some cases discriminatory approaches based on their disability.

Narrative 14.

I am in a relationship and together with my partner we want to have children. We both considered it necessary to start gynecological check-ups in a public health institution. I went to a public hospital, and there, the gynecologist did not perform any gynecological tests or analysis, nor asked for an opinion from the orthopedist, but he just addressed me with the words: <oh, you can't give birth to a child, otherwise you'll end up in a wheelchair>, and this caused me despair and emotional pain.

Totally desperate, I went to the orthopedist for advice, but without any prescription or instructions for tests or analyses regarding my health condition, he told me that I must undergo an operation in order to be able to give birth to a child.

Worried and depressed, I sought the help of a psychologist at the public institution.

After a while, I met a person who was waiting in line with me when I met with the psychologist. From the conversation with her (the person), I understood that the psychologist had disclosed my case to others.

A woman, approximately25 years old, with physical disability, unemployed, living in a rural area.

OI **assesses** that the undignified treatment and violation of the confidentiality of women, especially those with disabilities, in health institutions, represents a violation of human rights. The provision of health services must always take into account the patient's dignity and respect for their privacy, including cases where SRH advice and services are provided.

OI **recommends** as follows:

Ministry of Health

- *In cooperation with the Chamber of Doctors and the Chamber of Nurses, within the training curriculum for health personnel, MoH shall include training on dignified treatment and protection of patients' privacy in general and, in particular, when SRH advice and services are provided.*

Women and girls from minority communities have affirmed that in public hospitals they faced discriminatory language against them.

The interviewed NGOs shared their opinion regarding discrimination in the provision and access to SRH services. NGOs affirmed there have been individual cases ofdiscrimination against women

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and girls based on the area of residence, based on socio-economic, educational status , disability, physical appearance, and ethnicity.

Narrative 15.

When I sent my daughter-in-law to the gynecology clinic to give birth, they told me <another gypsy woman came...>" and I didn't feel good at all.

A woman (minority community), approximately 60 years old, no education, difficult economic situation, urban area

During the *Inquiry*, it was revealed that women and girls, in most cases, conduct the check-ups during pregnancy in private clinics, avoiding the public health institutionss, due to long waiting timesfor check-ups and insufficient time dedicated to them, resulting in women and girls not receiving adequate information and advice.

There have been cases when gynecologists were present at the public health institution during their working hours, but patients were instructed by other staff there to go to a private health institution where the same gynecologists were working. Also, it has been asserted that there are cases when the gynecologist in the public health institution did not provide services at all or provided them in a careless manner. After the referral to the private clinics, those same gynecologists provided appropriate services.

Narrative 16.

I go for visits to a private doctor's clinic because I tried to go to the public sector, in gynecology, but there I had to wait until 10, because the doctor initially conducts the visits at the hospital, until 10, and then from 10 to 11, visits some women and then leaves. After 11 o'clock, only the nurses are there. So it is better to go straight to a private clinic.

A woman aged approximately 35 years old, with secondary education, unemployed, with middle economic status

OI **assesses** that the non-provision of necessary health services is a violation of the rights of the patient/s for access to proper health care and treatment. Their referral from public to private health institutions denies women the right to free health services and treatment. As long as the health personnel are allowed to work in both health sectors, without proper supervision for respecting the schedule and the conflict of interest, this leaves room for abuse and misuse by the health personnel, of the duty and responsibilities they have.

Ombudsperson **recommends** as follows:

UHCSK and MFMCs (where there are maternity hospitals)

- *Through available mechanisms, to supervise the physical presence of health personnel in the workplace, during working hours.*

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- *Through quality officers, to monitor the performance and quality of the services provided (such as clinical audits, implementation of the CGP, etc)*

Following consultation with the women and girls, it was identified women and girls will attend a private clinic to receive their regular check ups by a doctor. This provides the opportunity for women and girls to attend a public hospital at the time of birth and receive care from the same doctor who performed check ups in the private clinic.

If it happens that during the birth process, the attending doctor is different from the one who has followed the woman's pregnancy, then, women and girls face inhumane treatment.

Another statement from the meetings with women and girls is that during pregnancy, they do the check-ups at private clinics, so that when their birth time comes, they turn to the public hospital, where the same doctor from the private clinic would help them during the birth process. If it happens that during the birth process, the attending doctor is different from the one who has followed the woman's pregnancy, then, women and girls face inhumane treatment.

In municipalities where maternity hospitals are functional,[189] women and girls have affirmed that they go there to receive maternal health services. However, in those municipalities where maternity hospitals are not functional, women and girls travel to other municipalities to receive services from public or private gynecological health institutions.

The OI has written to the MFMCs regarding the number of gynecological check-ups recommended for pregnant women and girls [190], for the period covered by the Inquiry. Data has been provided by 17 MFMCs indicating trained gynecologists or family doctors offered consultations and gynecological visits. However, 12 of the 17 MFMCs do not offer consulations or gynecological servicesdue to the absence of gynecologists.

From the answers received, a decreasing trend of provision/reception of services throughout 2020 can be observed, and this may be an indicator of the limitation of the provision of health services during the pandemic[191].

From the meetings held with representatives of the MoH we were informed that there are 14 maternity hospitals in the MFMCs in the country. Of these 14 hospitals10 of them are functional and offer gynecological consultations and visits, with the addition of birthgivings performed. Three maternity hospitals are partially functional, since there is no gynecologist and the services are limited, while one maternity hospital is not functional.[192]

[189]Functional maternity hospitals: Drenas, Lipjan, Podujevë, Rahovec, Suharekë, Skenderaj, Deçan, Istog. partly functional maternity in Vitia, Klinë, Dragash (no gynecologist), Malishevë (only services, no births are taking place), Kamenica. Kaçanik.
[190]The OI has written to 9 Directorates for health and social welfare, regarding the number of gynecological checks for pregnant women that have been offered at PHC. Four directorates have returned responses through which they have claimed that they have no information regarding the requests of women and girls for SRH.
[191]https://www.oik-rks.org/wp-content/uploads/2021/03/Ex-officio-sherbimet-shendetesore-gjate-pandemise-434-2020_resized.pdf
[192]Meeting with the Ministry of Health official, July 25, 2022.

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The standards and criteria for the full functionalization of the existing maternity hospitals in PHC is yet to bedeveloped and the funcionatlity of the maternity hospitals remains a political decision. This data is evident in the response received from the MoH[193].

Based on the information received from the two MFMCs in which the respective maternity hospitals are functional and where, in addition to other SRH services, births also take place, the OI **estimates** that this enables *women and girls* easier access to SRH.

However, the OI **finds** it necessary to evaluate the functionality of all maternity hospitals in the PHC and to reorganize them in accordance with the needs of the residents according to the respective municipalities.

OI **recommends** the following:

Ministry of Health

- *To carry out the assessment of the feasibility (cost-effectiveness) of maternity hospitals and take appropriate actions depending on the findings of the assessment*
- *To appoint a gynecologist in existing maternity hospitals, until a decision is made after the cost-effectiveness assessment.*

MFMC*s and* **the relevant health directorates,** in municipalities where there is no MFMC

- *To provide health promotion services, including information, communication and education in the community about gynecological check-ups, before conception and during pregnancy.*

Women and girls affirmed that during the process of birth, they face with challenges at the admission of public health institutions, such as violation of privacy, as well as inhumane and unacceptable treatment by health personnel. Their difficulties continue even in the delivery rooms. They claim that nurses and midwives have a very bad behavior, they do not provide the necessary care, but they insult with very serious words:***"Why did you come so late?"***, or "***come on, don't complain, you asked for it***" or in case the help of a nurse or midwife was needed due to the prenatal condition, they would say "***huh, as if I did not have anything else to do but to help you***",

Moreover, they add that there were cases when gynecologists (who followed them up during pregnancy in private clinics) have set their appointments, when they themselves are in the working hours at the public health institution and they are treated better during the birthgiving process.

Women and girls have affirmed that if you have family, relatives, social ties, or any other relation to any of the health personnel, then you are offered the necessary medical services and you will receive dignified treatment. Otherwise, you will face indecent treatment, especially from nurses and midwives.

[193]Letter of the MoH, dated March 21, 2022, with no. 98, addressed to the OI, as a response to the OI's letter, dated March 4, 2022, no. 317/2022

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Narrative 17.

During the last days of my first pregnancy, after birth pains started, I was admitted to a public hospital. The midwives, with their behavior and approach towards me but also towards other women there, instilled insecurity and fear in me. As the birthgiving process was taking longer, they told me to "hurry up because you will be left alone in the room", the birth was carried out without complications, but I experienced emotional trauma for a long time.

Age 25, secondary education, middle economic status, urban area.

Another concern expressed by women and girls are the improper hygienic conditions in institutions where pregnancy is monitored and birthgivings are performed. Their main concern was the dirty sheets and beds, the unsanitary the bathrooms in terrible conditions hygienic conditions (dirt, bad smell, lack of handwashing detergents, etc.). They affirmed that in addition to all the challenges they went through in the process of pregnancies and births, their constant fear was that they would get a hospital infection.

Narrative 18.

Three months before birth, I started gynecological check-ups, in order to prepare for a normal birth. When my contractions started, I went to the UCCK. During the check-up, the procedure for the baby's heartbeat was repeated three times. When I insisted to know what is happening, I was first told that "I am not holding the measurement device well" and then the medical nurse continued with the words <It's not just you here>, < you see that there are also other women here>. My condition worsened due to the distress she caused, I had dizziness and nausea. The nurse addressed me with the words <don't make such scenes>. Then, I was sent to the delivery room and I stayed there for about 7 hours without knowing what was happening to me or the child.

I asked to give birth by surgery, but they refused, and talked ironically to me. Then my condition worsened. After 20 minutes, they put me in line with the other women, to see if we are ready for birth. I was in a bad condition and I washed my hands and face with water, but the nurse there pushed me, saying <walk faster>. Several times I tried to tell them about my condition, but no one listened. When the pains became more frequent, then the doctor asked them to take me to the delivery box. There was a midwife and a group of interns laughing. I asked them to leave. The birthgiving was difficult. They grabbed me and elbowed me. The child was born with the cord around its neck, all pale. They kept me in the maternity ward for 1 month. The doctors gave no information about what the child had and why he was placed in the incubator. On the other side, the place was terribly dirty.

A woman approximately 30 years old, high education, employed, middle economic status, urban residence

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Negligence in the provision of health services and treatment by health personnel has been emphasized many times. The women and girls raised that the health personnel would approach the patients only when they insisted on receiving the necessary and urgent care.

Narrative 19.

I gave birth in a public hospital, the midwife was also present who, after completing her work schedule, left me in the delivery room together with the newborn child. It was very cold (October). I stayed there for three hours, I called for help all the time, but no one was notified until the next shift came. When the sisters of the next shift came to the hall, they told me why I had not asked for help? I told them "I've been calling you for three hours, my voice is hoarse."

A 32-year-old woman, secondary education, unemployed, rural area

Narrative 20.

...the health personnel did not assess my health condition, and the birth process went very badly. I had a heavy hemorrhage two hours after giving birth. The doctor in charge and another doctor were there, but they didn't do anything, until a friend of mine, also a doctor herself, came. Then they started to act and later the bleeding started to stop.

A woman, approximately 45 years old, higher education, employed, rural area.

Regarding the treatment and language used towards patients, we understood that not all women and girls who seek birth services are treated in a dignified and appropriate manner by the health staff in public institutions.

Women and girls from minority communities have complained about discriminatory language based on ethnicity in cases where they requested services related to gynecological check-ups or childbirth in public hospitals.

Narrative 21.

When I went to give birth at the city hospital, a nurse told me "what neighborhood are you from, gypsy...", and I felt offended.

A woman (minority community), approximately 35 years old, high education, middle economic status, urban area

The rights of women and girls with disabilities as a vulnerable community are protected by several laws. However, the women and girls themselves have affirmed that they face difficulties of various natures and often discrimination because of their disability.

NGOs that carry out different activities in the field of SRH, have raised the situation in practice regarding the provision of health services of this nature is not up to standard.

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Narrative 22.

*"When I got pregnant and went for a gynecological check-up, I faced the first difficulty. There was no adequate chair to perform the check-up, I had difficulties and felt uncomfortable. When it was time to give birth, I was admitted to the hospital, and there I faced many prejudices, first of all from the X doctor who told me "**why did you get pregnant in this condition**". The nurses kept repeating the same thing to me as long as I stayed there. I felt very bad from these prejudices, and moreover I e also faced difficulties such as: the difficulty to access toilets, unsuitable bed, inability to move to the dining hall".*

A woman, approximately40 years old, urban area, secondary education, employed, middle economic status

Likewise, civil society organizations have raised their concerns regarding the inhumane, discriminatory and insensitive treatment of health personnel in relation to women and girls with disabilities.

Narrative 23.

"On one occasion, during a gynecological examination, I heard someone from the health staff say to a woman with physical disabilities: < What do you need a child for, to be born just like you?>

NGO profiled for the needs of people with disabilities

A concern raised by women and girls is also the provision of medical therapies in the case of cesarean section. The nurses or midwives prescribe the therapy on a piece of paper regarding what they should buyto receive all the health services during and after birth. This makes the economic situation even more difficult for women, especially those who live in difficult economic conditions and are not economically independent.

OI **reiterates** that women's affirmation of their referral to buy medications without a prescription or even with a prescription, but with a referral to the private sector, raises the suspicion of improper planning, misuse or abuse of the list of essential drugs.

OI **considers** that public health institutions should create suitable conditions for women and girls with disabilities, to perform gynecological checks-ups and give birth in a dignified manner.

OI **finds** that non-provision of adequate infrastructural conditions in public health institutions, for women and girls with physical disabilities, represents a violation of human rights for access to adequate health care and treatment during gynecological checks and childbirth.

OI **draws attention** to the fact that in addition to providing health services and infrastructural conditions for everyone, cleanliness and hygienic sanitary conditions must be maintained, in accordance with the needs and specifications of the services.

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Also, the OI **assesses** that not providing the necessary drugs for SRH, especially the therapy needed for cesarean births (before, during and after the operation) is a violation of full access to health services.

OI **recommends** as follows:

MFMCs (where there are maternity hospitals)

- *To provide necessary chairs for gynecological examinations for persons with disabilities*

University Hospital and Clinical Service of Kosovo

- *To take immediate action for the purchase of adequate chairs, beds for gynecological check-ups and birthgiving for persons with disabilities in Obstetric and Gynecologic Clinics (OGC) and for all regional hospitals in the country*
- *In cases where inhumane treatment of patients by health personnel is found, adequate and effective disciplinary measures should be taken*
- *In cooperation with the Chamber of Nurses and the Chamber of Doctors, hold special trainings regarding the appropriate level of care nd dignified and non-discriminatory treatment before, during and after birthgiving*
- *To increase the control and supervision of the distribution of drugs from the Essential List, as well as to cease the referral for the purchase of drugs without a prescription.*

Ministry of Health

- *To provide medicines from the essential list on a timely manner and to make them accessible to all patients in need*

Sanitary Inspectorate

- *To make regular inspections in public health institutions relating to hygiene and sanitary conditions*
- *To take necessary measures, depending on the findings of inspections and communicate the findings publicly.*

The NIPHK, in its response to OI, has provided the number of births reported by OGC and general hospitals in the regions, in primary health care maternity hospitals, as well as in private health institutions.

Since 2016, NIPHK has been responsible for compiling the Perinatal Situation Report in Kosovo. The importance of the Perinatal Situation Report lies in the reflection of data on the state of health in the country and the quality of the health system foreseen in the objective of the Sectoral Health Strategy (2017-2021). NIPHK has published the latest report on the perinatal situation in Kosovo for the year 2020.[194] In this report, it is noted that the data used for its preparation are incomplete,

[194]The report of the perinatal situation in Kosovo for 2020 was forwarded to us in physical copy by NIPHK and we have not found it in an electronic version.

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both for birth and death statistics, and that births are presented according to the data of NIPHK and the data available to KAS, while the reports are missing for maternal deaths during this year. The NIPHK itself, in the preface of this Report, notes that "*readers and those who will use this research are advised to be reserved when considering the values of the indicators, because they do not adequately illustrate the reality of the perinatal situation in Kosovo*" .[195]

Furthermore, the Report shows that the standardized questionnaire from the three institutions KAS, ARC and MoH (NIPHK) is missing, even though it hassaid that work has been done on the unification of the reporting form.

NIPHK announces that due to the non-functioning of HIS for the registration of the number of births, it collects disaggregated data, such as age, profession and region for normal and caesarean births through an excel form in private institutions (from those institutions that report) and outpatient maternity hospitals, while they do not have data on marital status, the region they come from, rural or urban residence, as well as the physical and mental abilities of women/girls.

In comparison, births that are carried out at UCCK and regional hospitals are reported as aggregated data, and include number of cesarean births, howeverdo not have the basic criteria to decide whether the birth will be performed by caesarean section. Furthermore, the Report reveals the lack of inter-agency coordination to collect, process and publish disaggregated statistical data on perinatal fertility and mortality rates.

This inquiry showed that there is a Memorandum of Understanding between Ministry of Health (NIPHK), KAS and ARC,[196] regarding the harmonization of activities and sub-activities for the generation of reports for the health sector. The Memorandum of Understanding has obliged the signatory parties to generate reports for the health sector in accordance with the rules and procedures, according to the health indicators that serve as a source of data for KAS, in the drafting of various reports and sending the data to other national and international institutions. The Inquiry identified institutions not only did not respect the Memorandum of Understaning but continue to disregard their obligations and responsibilities to coordinate and cooperate for the benefit of public health and public interest.

According to WHO, maternal deaths are calculated by the annual number of deaths of women from any cause related to pregnancy (excluding accidental or random causes),childbirth or termination of pregnancy within 42 days, regardless of the duration and place of pregnancy.[197]

During meetings held within this Inquiry's process, health professionals have highlighted the issue of under-reporting of maternal deaths. OI has addressed letters to KAS, NIPHK, UHCSK regarding the statistics related to maternal deaths.

UHCSK, when asked about the number of maternal deaths (for 2019, 2020, 2021), respondedthat

[195] Ibid., p. 5.
[196] https://msh.rks-gov.net/ëp-content/uploads/2019/10/Marr%C3%ABveshja-MSh-ASK-ARC-p%C3%ABr-raportimin-e-indikator%C3%ABve-sh%C3%ABndet%C3%ABsor.pdf
[197] https://www.who.int/data/gho/indicator-metadata-registry/imr-details/4622

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there was1 (one) *case in 2019 (age 30-35 years, married, Albanian, with higher education).*

OI has sent a letter to NIPHK[198] relating to the same issue, for the same period of time, including for the causes of deaths, and age of the women and girls, their ethnicity, residence, economic and social status, physical and mental disability. In its response, NIPHK[199] has informed the OI that the data on maternal mortality is obtained in KAS, but not disaggregated in detail and sourced from aggregated published reports. On the other hand, KAS has not responded the OP's letter.

OI **reminds** KAS, as the responsible and competent authority to direct the process for the development of statistical indicators at the country level, as they are required to to fulfill their obligations. OI **finds** that KAS has the available human resources, and the sufficient knowledge to collect and report the data, as well as to identify the obstacles that they need to be addressed. Identification of relevant indicators, which are based on the guidelines for human rights indicators and on access to human rights-based data,[200] compiled by the Office of the OHCHR, is inevitable for the implementation of the 2030 Agenda.

OI **estimates** that the Perinatal Indicator is a key indicator of health status and reflects care during and after birth, as well as care for newborns. The lack of timely reporting of data of this nature results inconsequences and measures that the state must take to rectify the issues requiring further intervention.

OI **considers** that the lack of data on maternal deaths is an indication that the problem is silent and therefore does not receive the necessary commitment to be treated with the attention and seriousness it deserves.

The OI **finds** that non-implementation of legal obligations for the collection, processing and reporting of health data for statistical purposes by the responsible institutions represents their failure, respectively the failure of the state, for fair, timely and accurate reporting and irreparable consequences in the drafting of adequate policies and the provision of health care and services, with an emphasis on women and girls, when SRH is in question.

Ombudsperson **recommends** the following:

Ministry of Health

- *To urgently operationalize the integrated Health Information System (HIS), which must necessarily include disaggregated data for SRH, in a separate form, data on births, abortions, maternal deaths and causes of maternal deaths.*

National Institute of Public Health of Kosovo

[198]OI's letter to NIPHK dated August 22, 2022, no. 1261/2022
[199]The letter of NIPHK, dated September 6, 2022, no. 782, addressed as a response to the OI's letter, dated August 22, 2022, no. 1261/2022
[200] https://www.ohchr.org/sites/default/files/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf

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- *To collect, process and report disaggregated health data, according to the mandate and responsibilities it has, including complete and accurate data on births, maternal deaths, and the causes of maternal deaths*
- *To publish in a timely manner, the complete Report of the Perinatal Situation in Kosovo and to rely on accurate and trustworthy data.*

Kosovo Agency of Statistics

- *To fulfill the legal mandate for the collection and validation of (disaggregated) data and ensure ransparency through their publication, with special emphasis on the data related to the SRH, the data on births, abortions and maternal deaths, including the causes of maternal deaths.*

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Chapter IV

RECOMMENDATIONS

The recommendations resulting from this Inquiry are placed according to the findings separately and are outlined in the Table 17 Recommendations below **(Table 17)** according to the relevant institutions. Several recommendations that apply to all issues addressed in this Report have been unified and summarized in a single recommendation.

TABLE 17

RECOMMENDATIONS
Assembly of the Republic of Kosovo
1. *To include in the Constitution of the Republic of Kosovo, the Convention on the Rights of Persons with Disabilities and the Optional Protocol*
2. *To include in the Constitution of the Republic of Kosovo, the International Convention on Economic, Social and Cultural Rights*
3. *To include in the Constitution of the Republic of Kosovo, the European Social Charter (revised in 1996)*
4. *To carefully monitor the linguistic compatibility of its approved acts. Special care should be taken to ensure that the translation of these approved acts preserves the accuracy of the provisions from one language to another*
Government of the Republic of Kosovo
1. *To increase the budget for the health sector, to respond to the needs and demands of the population, taking into account infrastructure and health staff*
2. *Within the general budget for the health sector, there should be a separate allocation line for SRH*
Kosovo Agency of Statistics

1. *To fulfill the legal mandate for the collection and validation of (disaggregated) data and make them transparent through their publication, with special emphasis on the data related to the SRH, the data on births, abortions and maternal deaths, including the causes of maternal deaths*
Ministry of Health
1. *To supplement and amend Law no. 02/L-76 on Reproductive Health, to harmonize it with Law no. 04/L-125 on Health*
2. *To supplement and amend Law 03/L-110 on Termination of Pregnancy, in order to harmonize with Law no. 04/L-125 on Health, including the linguistic aspect*
3. *To complete and amend Law no. 02/L-38 on Health Inspectorate, to harmonize with the law no. 04/L-125 on Health*
4. *During the drafting of legal acts issued by the MoH, to take into account the linguistic compatibility between acts and the accuracy of translations from one language to another*
5. *To regulate the functioning of the Pharmaceutical Inspectorate bylaw*
6. *To regulate assisted reproduction by law*
7. *To publish the regulations and AI in the Official Gazette*
8. *To start implementing the relevant law on health insurance as soon as possible*
9. *To draft Standard Operating Procedures (SOP) for family planning, for maternal care, as well as for abortion, defining the steps according to responsibilities, competencies and levels of health care*
10. *To design guidelines and/or CGP on family planning in PHC*
11. *To draft CGP based on evidence for abortion, in order to provide quality and safe services, to avoid eventual complications, during and after abortion*
12. *To coordinate, plan and address correctly and timely the issue of supply of contraceptives from the list of essential drugs, in compliance with the number of the sexually active population, according to the requirements of the MFMCs.*
13. *To increase the number of profiled health inspectors in HI, as well as experts in relevant professional fields, considering all levels of health care and the complexity of the supervision required*
14. *To ensure working conditions for health inspectors, in order to fulfill the mandate of HI*
15. *To promote the free line for citizens' complaints according to the current legislation*

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16. *To fulfill its supervisory role in relation to HI and PI and to take the measures provided by law, in case of non-fulfillment of the respective mandates*
17. *Through a special Circular, to request from health institutions in the field of SRH to provide information and post-abortion care services, including information on modern contraceptive methods and their provision, as well as psychological support services during the abortion process (before and after abortion)*
18. *To request evidence-based services from health institutions, according to the highest attainable standards of physical and mental health, including SRH*
19. *To include training for the provision of information, services and dignified treatment, in cooperation and coordination with the Chamber of Doctors and the Chamber of Nurses, within the training curriculum for health personnel*
20. *To include in the curriculum trainings on respect for privacy and data protection of patients (separately for SRH), with an awareness-raising character, regarding the legal guarantees for the protection of this right and the consequences that the staff may have, if they violate this right, intended for health personnel, managerial and administrative staff, in cooperation with the Agency for Information and Privacy*
21. *To carry out the feasibility assessment (cost-effectiveness) of maternity hospitals and take appropriate actions, depending on the findings of the assessment*
22. *To appoint a gynecologist in existing maternity hospitals, until a decision is taken after the cost-effectiveness assessment*
23. *Provide drugs from the list of essential drugs in a timely manner and make them accessible to all patients in need*
24. *Urgently operationalize the integrated Health Information System (HIS, which must necessarily include disaggregated data for SRH separately, data on births, abortions and maternal deaths, including the causes of maternal deaths*
25. *To draft policies for the development of promotional activities on prevention and early detection of cervical, ovarian and breast cancer*
26. *To draft without further delay, the National Cancer Control Program in Kosovo*

Health Inspectorate

1. *To inspect health personnel in exercising a proactive role and providing quality contraceptive information and services, including the provision of contraceptives from the lList of eEssential dDrugs.*
2. *To supervise the implementation of the referral, both for services and for contraceptives, in terms of compliance with laws, in addition to the health and professional dimension*

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3. *To address violations or challenges to the relevant authority, so that health policies and budget allocations from the responsible authorities are in line with needs and goals*
4. *To inspect on a regular basis, the public and private health institutions that provide abortion services for safe abortion (accreditation of the institution, licensing of professionals, practical implementation of the conditions and criteria established for safe abortion and post-abortion care) according to the legislation in force and international standards*
5. *To supervise the implementation of Clinical Guidelines and Protocols (CGP and Standard Operating Procedures (SOP, to report and make these findings transparent*
6. *To make inspection findings transparent, through the publication of reports*
Pharmaceutical Inspectorate
1. *To supervise the implementation of the referral for contraceptives, in terms of compliance with laws, in addition to the health and professional dimension*
2. *To take action and depending on the findings of the inspections, and make findings public*
Sanitary Inspectorate
1. *To conduct regular inspections in public health institutions related to hygiene and sanitary conditions*
1. *To take measures, and depending on the findings of the inspections, to make findings public*
Ministry of Education, Science, Technology and Information
1. *To continuously monitor the quality of inclusive sex education teaching, according to the standards and depending on the findings, take necessary measures*
Inspectorate of Education
1. *EnsureTo inspect whether teachers in the country's schools, at all levels, are implementing the curriculum that includes SRH education*
National Institute of Public Health in Kosovo
1. *To continue including SRH in health information and educational activities, dedicating more attention to communities predisposed to be vulnerable in terms of enjoying the rights to SRH*
2. *To create a special form (sheet) for reporting disaggregated data on abortion*

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3. *To fulfill legal obligations and responsibilities for the collection, processing and reporting of disaggregated health data, according to the mandate and responsibilities it has, including complete and accurate data independently, data on births, abortions and maternal deaths, including causes of maternal deaths* 4. *To publish the complete Perinatal Situation Report in Kosovo in a timely manner and rely on accurate data* 5. *To complete and update the Cancer Registry, according to WHO standards* 6. *To include the Human Papilloma Virus (HPV) vaccine in the national vaccination calendar*
University Clinical Hospital Service of Kosovo **(Secondary Health Care and Tertiary Health Care)**
1. *To provide interpretation in sign language for the needs of patients in SHC and THC* 2. *To organize trainings in cooperation with the Agency for Information and Privacy, for all staff in SHC and THC, including managerial and administrative staff, related to the protection of the right to privacy and confidentiality of patients. Training includes, including trainings that have an awareness-raising character regarding the legal guarantees for the protection of this right and the consequences that the staff may have, in case they violate this right* 3. *In cooperation with the Chamber of Nurses and the Chamber of Doctors, to hold special trainings for health personnel, regarding the appropriate approach and dignified and non-discriminatory treatment for all patients, especially during the process of abortion or before, during and after childbirth* 4. *To create suitable infrastructural facilities to treat treat women and girls with dignity and respect towards the privacy of women or girls, during gynecological checks and abortion.* 5. *To take immediate action for the purchase of adequate resources including chairs, beds for gynecological checks and births for persons with special needs in OGC and for all regional hospitals in the country.* 6. *To increase the control and supervision of the distribution of drugs from the Essential List, as well as to cease referrals for the purchase of drugs without a prescription* 7. *To provide advice and modern methods of family planning after abortion and document it in the patient's report and the patient's file/card* 8. *Through the available mechanisms, supervise the physical presence of health personnel, at the workplace, during the scheduled working hours*

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9. *Through the quality officers, supervise the performance and quality of the services (such as clinical audits, implementation of CGP, etc)* 10. *To inform patients about the processof filing a complaint* 11. *To provide effective legal remedies and to operationalize the complaint mechanisms to make them effective and efficient, in order to fulfill the obligation that the state has towards ensuring access to justice for all without discrimination* 12. *In cases where it is found that there was inhumane treatment of patients by the health personnel was found, adequate and effective disciplinary measures should be taken* 13. *To improve the infrastructure in the oncology clinic, in accordance with the needs and demands of patients with diseases during the reception of health services* 14. *To timely plan and provide the necessary tools and medications for diagnosis and treatment of patients with malignant diseases, including those affected by cancer of the uterus, ovaries and breast.* 15. *Within the framework of legal authorizations, to decentralize chemotherapy and counseling services, ensuring sufficient and adequate spaces and necessary professional staff.*
Relevant Municipal Health Directorates *Ferizaj; Fushë Kosovë;Graçanicë; Gjakovë; Gjilan; Han i Elezit; Junik; Kllokot; Leposaviq; Mamushë; Mitrovicë jugore; Mitrovicë veriore; Novobërdë; Obiliq: Partesh; Pejë; Prishtinë; Prizren; Ranillug; Shtërpcë; Shtime; Vushtrri; Zubin Potok; Zveçan, Deçan; Dragash; Gllogoc; Istog; Kaçanik; Kamenicë; Klinë; Lipjan; Malishevë; Rahovec; Podujevë; Skenderaj; Suharekë; Viti*
1. *To provide interpretation in sign language for the needs of patients in PHC*
Relevant Municipal Health Directorates (that have maternity Hospitals) *Deçan; Dragash; Gllogoc; Istog; Kaçanik; Kamenicë; Klinë; Lipjan; Malishevë; Rahovec; Podujevë; Skenderaj; Suharekë; Viti*
1. *To provide necessary chairs for gynecological examinations for persons with disabilities*
MFMCs and the municipalities where there is no MFMCs, the relevant health Directorates
1. *To increase knowledge, build skills and abilities for information and education on SRH within the institution (for local health personnel)*

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2. *To fulfill the legal obligation for health education and a proactive role in providing information, quality services for SRH and modern contraceptives, through daily professional work and to record it through HIS in the patient's report.*
3. *To fulfill the legal obligation for information and education in the community (according to AI 04/2020), including SRH, through promotional and educational activities, as well as to use the website of the MFMC, as an information and education channel.*
4. *To plan and address correctly and in a timely manner the issue of the supply of contraceptives from the List of essential drugs, taking into account the requirements of the FMC and FMCl, as well as the number of services, in accordance with the number of sexually active population in the area covered by MFMC.*
5. *To supervise the implementation of referral by health personnel, both for services and for contraceptives, in terms of compliance with laws, in addition to the health and professional dimension.*
6. *Seekers of SRH services who go to the Ministry of Health, should be informed about the contraceptives in stock and the possibility of obtaining them free of charge from the List of Essential Drugs. This should be supervised through the stock cards, respectively the pharmaceutical stock management system, for all contraceptives.*
7. *To organize training in cooperation with the Agency for Information and Privacy, for all the staff at the PHC, including the managerial and administrative staff, regarding the protection of the right to privacy and confidentiality of the patients, including trainings that have an awareness-raising character on the legal guarantees for the protection of this right and the consequences that the staff may have if they violate this right.*
8. *To supervise the physical presence of health personnel, in the workplace, during the scheduled working hours, through available mechanisms*
9. *To supervise the performance and quality of the services provided (such as clinical audits, implementation of CGPs, et.) through quality officers*
10. *To inform patients about the process of filing a complaint*
11. *Provide effective legal remedies and to operationalize and make the complaint mechanisms effective and efficient, to fulfill the obligation that the state has towards ensuring access to justice for all without discrimination*

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In accordance with Article 132, paragraph 3, of the Constitution of the Republic of Kosovo ("*Every organ, institution or other authority exercising legitimate power of the Republic of Kosovo is bound to respond to the requests of the Ombudsperson and shall submit all requested documentation and information in conformity with the law*").

Based on Article 28 of Law no. 05/L-019 on Ombudsperson "*Authorities to which the Ombudsperson has addressed a recommendation, request or proposal for undertaking concrete actions, (...) must respond within thirty (30) days. The answer should contain written reasoning regarding actions undertaken about the issue in question"*, please inform us of the actions you will take regarding the contents of this Report and the addressed Recommendations.

Sincerely,

Naim Qelaj
Ombudsperson

Appendix I

List of OI letters addressed to the authorities and their responses

1. Ministry of Health
   OI's letter, on 04/03/22, with protocol no. 317;
   OI's letter, on 21/10/22, with protocol no. 1687
   Ministry of Health letter, on 21/03/22, with protocol no. 98
   Ministry of Health letter, dated 04/11/22, with protocol no. 458

2. University Hospital and Clinical Service of Kosova
   OI's letter, on 08/19/22, with protocol no. 1253
   OI's letter, on 10/19/22, with protocol no. 1662
   The letter of UHCSK, on 07/11/22, with protocol no. 463

3. Health Inspectorate
   OI's letter, dated 07/03/22, with protocol no. 326
   Letter of IS, on 08/04/22, with protocol no. 138
   OI's letter, on 11/05/22, with protocol no. 744
   Letter of IS, on 26/07/22, with protocol no. 256

4. Prison Health Department
   OI's letter, on 08/03/22, with protocol no. 335
   DShB's letter, dated 03/15/22, with protocol no. 89

5. National Institute of Public Health of Kosova
   OI's letter, on 22/08/22, with protocol no. 1261
   The letter of NIPHK, on 08/09/22, with protocol no. 342

6. Kosovo Agency of Statistics
   OI's letter, on 21/10/22, with protocol no. 1688

7. Family Medicine Center in Prishtina
   OI's letter, on 31/05/22, with protocol no. 826 protocol
   The letter of the MFMC in Pristina, on 14/06/22, with protocol no. 211

8. Family Medicine Center in Obiliq
   OI's letter, on 31/05/22, with protocol no. 828
   OI's letter, dated 29/07/22, with protocol no. 1180
   The letter of MFMC in Obiliq, on 01/09/22, with protocol no. 337

9. Family Medicine Center in Lipjan
   OI's letter, on 31/05/22, with protocol no. 830
   OI's letter, dated 29/07/22, with protocol no. 1181
   The letter of the MFMC in Lipjan, on 12/08/22, with protocol no. 305

10. Family Medicine Center in Podujevë
    OI's letter, on 31/05/22, with protocol no. 829
    The letter of the MFMC in Podujevë, on 20/06/22, with protocol no. 219

11. Family Medicine Center in Prizren
    OI's letter, on 06/07/22, with protocol no. 1011
    The letter of the MFMC in Prizren, on 21/07/22, with protocol no. 248

12. Family Medicine Center in Gjilan

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OI's letter, on 06/07/22, with protocol no. 1013
OI's letter, on 08/19/22, with protocol no. 1254
The letter of the MFMC in Gjilan, on 30/08/22, with protocol no. *330*

13. Family Medicine Center in Ferizaj
    OI's letter, on 06/07/22, with protocol no. 1014 protocol
    The letter of the MFMC in Ferizaj, on 21/07/22, with protocol no. *249*

14. Family Medicine Center in Drenas / Gllogoc
    OI's letter, on 06/07/22, with protocol no. 1012
    The letter of MFMC in Drenas / Gllogoc, on 21/07/22, with protocol no. 247

15. Family Medicine Center in Kaçanik
    OI's letter, on 06/07/22, with protocol no. 1010
    The letter of MFMC in Kaçanik, on 25/07/22, with protocol no. 253

16. Family Medicine Center in Malisheva
    OI's letter, on 06/07/22, with protocol no. 1009
    The letter of the MFMC in Malishevë on 15/08/22, with protocol no. 309

17. Family Medicine Center in Suhareka
    OI's letter, on 07/13/22, with protocol no. 1043
    OI's letter, on 22/08/22, with protocol no. 1257
    The letter of MFMC in Suhareka, on 09/09/22, with protocol no. 354

18. Family Medicine Center in southern Mitrovica
    OI's letter, on 07/13/22, with protocol no. 1045
    The letter of the MFMC in southern Mitrovica, on 03/08/22, with protocol no. 284

19. Family Medicine Center in Vushtrri
    OI's letter, on 07/13/22, with protocol no. 1046
    OI's letter, on 22/08/22, with protocol no. 1260
    The letter of the MFMC in Vushtrri, on 09/08/22, with protocol no. 343

20. Family Medicine Center in Skenderaj
    OI's letter, on 07/13/22, with protocol no.1047
    OI's letter, on 22/08/22, with protocol no. 1255
    The letter of MFMC in Skenderaj, on 09/08/22, with protocol no. 346
    The letter of MFMC in Skenderaj on 14/09/22, with protocol no. 360

21. Family Medicine Center in Novobërdë
    OI's letter, on 07/13/22, with protocol no. 1051
    OI's letter, on 22/08/22, with protocol no.1259
    The letter of the MFMC in Novobërdë, on 25/08/22, with protocol no. 326

22. Family Medicine Center in Rahovec
    OI's letter, on 07/13/22, with protocol no. 1044 protocol
    The letter of the MFMC in Rahovec, on 21/07/22, with protocol no. 246

23. Family Medicine Center in Viti
    OI's letter, on 07/13/22, with protocol no. 1050
    The letter of MFMC in Viti, on 28/07/22, with protocol no. 264

24. Family Medicine Center in Shtime
    OI's letter, on 07/13/22, with protocol no.1052

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The letter of MFMC in Shtime, on 29/07/22, with protocol no. 265

25. Family Medicine Center in Junik
    OI's letter, on 07/13/22, with protocol no. 1049
    The letter of MFMC in Junik, on 03/08/22, with protocol no. 283

26. Family Medicine Center in Istog
    OI's letter, on 07/13/22, with protocol no. 1048
    The letter of the MFMC in Peja on 15/08/22, with protocol no. 308

27. Family Medicine Center in Deçan
    OI's letter, on 07/18/22, with protocol no. 1102
    OI's letter, on 22/08/22, with protocol no. 1256

28. Family Medicine Center in Fushë Kosovë
    OI's letter, on 07/18/22, with protocol no. 1105
    OI's letter, on 22/08/22, with protocol no. 1258
    The letter of the MFMC in Fushë Kosovë, on 09/09/22, with protocol no. 35

29. Family Medicine Center in Gjakova
    OI's letter, on 07/18/22, with protocol no. 1103 p
    The letter of the MFMC in Gjakovë, on 28/07/22, with protocol no. 262

30. Family Medicine Center in Kamenica
    OI's letter, on 07/18/22, with protocol no. 1106
    The letter of the MFMC in Kamenica, on 01/08/22, with protocol no. 277

31. Family Medicine Center in Dragash
    OI's letter, on 07/18/22, with protocol no. 1104
    The letter of MFMC in Dragash on 04/08/22, with protocol no. 288

32. Family Medicine Center in Hani i Elezit
    OI's letter, on 07/18/22, with protocol no. 1107
    The letter of MFMC to Hani i Elezit on 09/08/22, with protocol no. 299

33. Family Medicine Center in Peja
    OI's letter, on 31/05/22, with protocol no. 827
    OI's letter, dated 29/07/22, with protocol no. 1179
    The letter of the MFMC in Peja on 09/08/22, with protocol no. 296

34. Family Medicine Center in Klina
    OI's letter, on 08/19/22, with protocol no. 1252
    The letter of the MFMC in Klina, on 08/09/22, with protocol no. 345

35. Family Medicine Center in Mamushe
    OI's letter, on 08/19/22, with protocol no. 1251
    The letter of the MFMC in Mamushë, on 09/08/22, with protocol no. 344

36. Directorate of Health and Social Welfare in Graçanica
    OI's letter, on 10/19/22, with protocol no. 1649

37. Directorate of Health and Social Welfare in northern Mitrovica
    OI's letter, on 10/19/22, with protocol no. 1650

38. Directorate of Health and Social Welfare in Zveçan
    OI's letter, on 10/19/22, with protocol no. 1651

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The letter of DHSW in Zveçan, on 16/11/22, with protocol no. 475 protocol

39. Directorate of Health and Social Welfare in Leposaviq
    OI's letter, on 10/19/22, with protocol no. 1652

40. Directorate of Health and Social Welfare in Ranillug
    OI's letter, on 10/19/22, with protocol no. 1653

41. Directorate of Health and Social Welfare in Zubin Potok
    OI's letter, on 10/19/22, with protocol no. 1657

42. Directorate of Health and Social Welfare in Partesh
    OI's letter, on 10/19/22, with protocol no. 1653
    The letter of DHSW in Partesh, on 04/11/22, with protocol no. 459

43. Directorate of Health and Social Welfare in Kllokot
    OI's letter, on 10/19/22, with protocol no. 1656
    The letter of DHSW in Kllokot, on 08/11/22, with protocol no. 464

44. Directorate of Health and Social Welfare in Shtërpce

    OI's letter, on 10/19/22, with protocol no. 1655
    The letter of DHSW in Shtërpce, on 11/11/22, with protocol no. 469

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Appendix I

List of interviewed NGOs

1. NGO ‘; Red Cross of Kosovo”, Gjakovë
2. NGO “Mundësia”, Mitrovicë
3. NGO “Ballkan Sunflowers”, Fushë Kosovë
4. NGO”ZANA”, Klinë
5. Qendra për mbrojtjen e grave dhe fëmijëve “Shtëpia ime”, Ferizaj
6. NGO “ Renesanca”, Prizren
7. NGO “SIT”, Prishtinë
8. NGO “Duart plotë mëshirë’, Pejë
9. NGO “RrOGRAEK”, Prishtinë
10. NGO”PEN”, Prishtinë
11. NGO” VISION 02”, Istog
12. NGO” Drugëza”, Skenderaj
13. NGO” Iniciativa e Grave”, Dragash
14. NGO”Dardana press” Kamenicë
15. NGO “Handikos Mitrovica”, Mitrovicë
16. NGO” NEVOCONCEPTI”, Prizren
17. NGO” Qershiza”, Junik
18. NGO” Handikos-P’, Prizren
19. NGO”Handikos-Gjilan”, Gjilan
20. NGO”MEDIKA Gjakova’
21. NGO” Roma in Action” Gjakovë
22. NGO” Syri vision”, Pejë
23. NGO”Jeta”, Deçan
24. NGO” Fortesa”, Kamenicë
25. NGO” Kosova-woman 4 woman”, Prishtinë
26. NGO” Handikos- Kaçanik”, Kaçanik
27. NGO” Gruaja Hyjnore”, Gjilan
28. NGO” Hendifer”, Ferizaj
29. NGO”Aureola”, Obiliq
30. NGO”AMC”, Prishtinë
31. NGO”YMCA Movement”, Prishtinë
32. NGO” Shtëpia e sigurt”, Gjakovë
33. NGO” Udruzenje poslovnih zena severnog regiona-severna Mitrovica” Mitrovica veriore
34. NGO” Zensko Pravo’, Mitrovicë veriore
35. NGO” Down Syndrome Kosova”, Prishtinë

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