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Institucioni i Avokatit të Popullit • Institucija Ombudsmana • Ombudsperson Institution

OMBUDSPERSON

REPORT

Ex officio 535/2019

on the implementation of special measures provided for in Article 6 [Special Measures] of Law No. 05/L-020 on Gender Equality by legislative, executive, and judicial bodies at all levels, as well as by other public institutions in Kosovo

To: Mr. Glauk Konjufca, Speaker
Assembly of the Republic of Kosovo

Mr. Albin Kurti, Prime Minister
Government of the Republic of Kosovo

Mr. Elbert Krasniqi, Minister
Ministry of Local Government Administration

Mr. Albert Zogaj, Chair
Kosovo Judicial Council

Mr. Ardian Hajdaraj, Chair
Kosovo Prosecutorial Council

Copy: Ms. Vjosa Osmani
President of the Republic of Kosovo

Ms. Duda Balje, Chair
Assembly Committee on Human Rights, Gender Equality

Ms. Edi Gusia, Executive Director
Agency for Gender Equality, Office of the Prime Minister

Mr. Habit Hajredini, Director
Office for Good Governance

Prishtina, December 13th, 2024

I. PURPOSE OF REPORT

1. In its capacity as the equality body, the Ombudsperson, through this report, aims to reflect the state of gender representation in the institutions of the Republic of Kosovo, with a particular emphasis on high-level leadership and decision-making positions; and
2. Furthermore, the Ombudsperson aims to assess the implementation of Article 6 [Special Measures] of the Law on Gender Equality by the institutions of the Republic of Kosovo, in the context of obligations related to the adoption of special measures to address gender inequality between men and women.

II. POWERS AND RESPONSIBILITIES OF THE OMBUDSPERSON

3. Pursuant to Law No. 05/L-019 on the Ombudsperson, the Ombudsperson, among other duties, has the following competencies and responsibilities:
 - *“The Ombudsperson has the power to investigate, either to respond to complaint filed or on its own initiative (ex officio), if from findings, testimonies and evidence presented by submission or by knowledge gained in any other way, there is a base resulting that the authorities have violated human rights and freedoms stipulated by the Constitution, laws and other acts, as well as international instruments on human rights.”* (Article 16, paragraph 4);
 - *“to draw attention to cases when the institutions violate human rights and to make recommendation to stop such cases and when necessary to express his/her opinion on attitudes and reactions of the relevant institutions relating to such cases;”* (Article 18, par. 1, sub-paragraph 2);
 - *“to inform about human rights and to make efforts to combat all forms of discrimination through increasing of awareness, especially through information and education and through the media;”* (Article 18, par. 1, sub-paragraph 4);
 - *“to make recommendations to the Government, the Assembly and other competent institutions of the Republic of Kosovo on matters relating to promotion and protection of human rights and freedoms, equality and non-discrimination;”* (Article 18, par. 1, sub-paragraph 5);
 - *“to publish notifications, opinions, recommendations, proposals and his/her own reports;”* (Article 18, par. 1, sub-paragraph 6);
 - *“to recommend promulgation of new Laws in the Assembly, amendments of the Laws in force and promulgation or amendment of administrative and sub-legal acts by the institutions of the Republic of Kosovo;”* (Article 18, par. 1, sub-paragraph 7);
4. Law No. 05/L-020 on Gender Equality, Article 13 [Ombudsperson], stipulates that: *“Ombudsperson is an equality institution that handles cases related to gender discrimination, in accordance with procedures established by the Law on Ombudsperson.”*
5. Law No. 05/L-021 on Protection from Discrimination, Article 9 [Ombudsperson], Paragraph 1, stipulates that: *“The Ombudsperson is state institution for equality, for promotion and protection of human rights. The Ombudsperson shall handle cases related*

to discrimination under the relevant Law on Ombudsperson.”

By sending this report to the competent institutions, as well as publishing it, the Ombudsperson aims to fulfill these legal responsibilities.

III. LEGAL FRAMEWORK

Constitution of the Republic of Kosovo

6. Article 7 [Values], paragraph 2, provides that:

“The Republic of Kosovo ensures gender equality as a fundamental value for the democratic development of the society, providing equal opportunities for both female and male participation in the political, economic, social, cultural and other areas of societal life.”

7. Article 24 [Equality before the Law]

1. All are equal before the law. Everyone enjoys the right to equal legal protection without discrimination.

2. No one shall be discriminated against on grounds of race, color, gender, language, religion, political or other opinion, national or social origin, relation to any community, property, economic and social condition, sexual orientation, birth, disability or other personal status.

3. Principles of equal legal protection shall not prevent the imposition of measures necessary to protect and advance the rights of individuals and groups who are in unequal positions. Such measures shall be applied only until the purposes for which they are imposed have been fulfilled.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

8. Article 11, paragraph 1, item (c) stipulates that:

“States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: (a) The right to work as an inalienable right of all human beings; (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment; (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;”

Law No. 05/L-020 on Gender Equality

9. Law on Gender Equality (LGE), Article 5, par. 1 [General measures to prevent gender discrimination and ensure gender equality], stipulates:

“In order to prevent and eliminate gender discrimination and achieve gender equality, Republic of Kosovo Institutions which include bodies at all levels of legislative, executive, judicial and other public institutions shall be responsible to implement legislative and other measures [...].”

10. Article 6 [Special measures], paragraph 8 of LGE stipulates:

*“Equal gender representation in all legislative, executive and judiciary bodies and other public institutions is achieved when ensured a minimum representation of **fifty percent (50%) for each gender**, including their governing and decision-making bodies.”*

Law No. 05/L-021 on Protection from Discrimination

11. Law on Protection from Discrimination (LPD), Article 1, stipulates:

“The purpose of this law is to establish a general framework for prevention and combating discrimination based on nationality, or in relation to any community, social origin, race, ethnicity, colour, birth, origin, sex, gender, gender identity, sexual orientation, language, citizenship, religion and religious belief, political affiliation, political or other opinion, social or personal status, age, family or marital status, pregnancy, maternity, wealth, health status, disability, genetic inheritance or any other grounds, in order to implement the principle of equal treatment.”

12. Article 4, paragraph 1, sub-paragraph 1.2 of LPD stipulates:

“Indirect discrimination - is considered when a provision, criterion or impartial practice in appearance, has or will put the person in an unequal position compared with others, according to one or more of the grounds set out in Article 1 of this Law, unless the provision, criterion or practice can be objectively justified by a legitimate purpose and the means of achieving that purpose are appropriate and necessary;”

13. Article 6 [Other justified treatments] of LPD stipulates:

“...[I]t is not deemed a discrimination a distinction in treatment which is based on differences provided on grounds of Article 1 of this Law, ..., if that provision, criterion or practice is justified by a legitimate purpose and there is a reasonable relationship of proportionality between the means employed and the targeted aim.”

14. Article 7 of LPD stipulates that:

“Affirmative actions are undertaken measures in order to prevent or compensate unfavourably groups or persons related to any of the grounds specified in Article 1 of this Law.”

15. Article 8 [Responsibilities of institutions of the Republic of Kosovo] of LPD stipulates that:

“All institutions should act in accordance with the principles of this Law during the exercise of their duties and drafting of policies and legislation.”

IV. CASE CIRCUMSTANCES AND DESCRIPTION OF THE FACTUAL SITUATION

16. In order to assess efforts towards achieving gender equality in the context of equal representation of women and men within public institutions, the Ombudsperson Institution distributed a questionnaire to all public authorities – part of the legislative, executive, and judicial branches – on October 20, 2023, and November 3, 2023.

17. The collection, processing, and analysis of the data presented in this report were carried out with the support of the USAID Commercial Justice Program.

18. The purpose of the questionnaire distributed to institutions was to determine the factual situation regarding gender representation at various levels of institutional hierarchy, as well

as the adoption of special measures aimed at accelerating equal representation of men and women in the institutions of the Republic of Kosovo.

19. As of the publication of this report, only 50 public authorities, including both central and local institutions, have responded to the questionnaire. Additionally, a limitation of this report is linked to the non-uniform nature of institutional responses. It is important to note that, for the purposes of this report, the reported figures for mid-level management also include those for lower-level management. Meanwhile, the figures reported for support staff encompass both professional and administrative personnel.
20. According to the analysis of the data and responses from public authorities regarding the number of men and women at different levels, it is evident that women continue to be underrepresented, particularly in high-level decision-making positions.
21. Members of the Assembly of Kosovo elected in the General Elections of February 14, 2021, consist of 44 women (36.7%) and 76 men (63.3%).
22. The results indicate that, although there has been an increase in the number of women elected beyond the 30% gender quota set by the Law on General Elections, the quota itself has yielded limited results. The 30% gender quota remains in force under Law No. 08/L-228 on General Elections in the Republic of Kosovo, which entered into force in July 2023. In this regard, on January 16, 2024, the Ombudsperson submitted a request to the Constitutional Court of the Republic of Kosovo to assess the compliance of Article 28 of Law No. 08/L-228 on General Elections in the Republic of Kosovo with the Constitution.¹ The contested provision retained the same definition from the previous law, stating that: *“In each political entity’s candidate list, at least thirty percent (30%) shall be male and at least thirty (30%) per cent shall be female, with one candidate from each gender included at least once in each group of three candidates, counting from the first candidate in the list.”*
23. The Ombudsperson has observed that most political entities competing in the general elections of February 14, 2021, had lists composed of 30% women and 70% men, in line with the legal requirement that no gender should be represented by less than 30%. In practice, however, it was noted that women were consistently represented at exactly 30%, while men held 70% of the positions. Additionally, almost all political entity candidate lists followed a pattern where every third candidate was a woman, while the first two candidates were men.
24. According to data reported by the Assembly of the Republic of Kosovo, within its administration, high-level decision-making positions are held by two men and no women. At the mid-level management tier, 42.5% of positions are held by women and 57.5% by men. Meanwhile, in support/administrative positions, gender representation is more balanced, with women occupying 48.8% of positions and men 51.2%.
25. Regarding the institutions accountable to the Assembly of the Republic of Kosovo, based on the data provided by 11 of these institutions, high-level decision-making positions are composed of 34% women and 66% men. At the mid-level management tier, women hold

¹ <https://oik-rks.org/2024/01/16/avokati-i-popullit-i-drejtshmerise-kushtetuese-te-republikes-se-kosoves-me-kerkese-per-vleresimin-e-perputhshmerise-me-kushtetuten-te-nenit-28-te-ligjit-nr-081-228-per-zgjedhjet-e-pergjithshme/>

35.7% of these positions, while men hold 64.3%. In contrast, within support staff positions, 26.7% are held by women and 73.2% by men.

26. In the context of the executive branch and based on data reported by public authorities at the central level, women hold 11.7% of high-level leadership positions, whereas men occupy 88.3%. Similarly, at the mid-level leadership tier, there is a significant gender disparity, with women holding 26.6% of positions, while men account for 73.4%.
27. In certain institutions, such as the Ministry of Justice, gender representation has been reported to be more balanced compared to the overall central-level average. In this institution, the position of Secretary General is held by a woman, while women comprise 44.4% of mid-level leadership positions. However, in its subordinate institutions and within regulated professions under the Ministry of Justice's jurisdiction, gender representation is reported to be less balanced. For example, among 41 private enforcement officers operating across Kosovo, only 2 are women, while 39 are men - resulting in an extremely low female representation of under 5% in this profession. Although higher in percentage, female mediators still make up only 28% of the total number of active mediators, indicating that this profession also remains male-dominated.
28. Institutions such as the Kosovo Police continue to be predominantly male at all levels of the institutional hierarchy. According to data reported by the institution, high-level leadership positions are held by 15 women and 143 men, equating to 8.9% female and 91.1% male representation. Similarly, gender representation in mid-level leadership and administrative/support staff positions remains highly disproportionate. At the mid-level leadership tier, 42 women (9%) and 424 men (91%) are employed. Meanwhile, the total number of administrative/support staff is 7,383, of which 975 (13%) are women and 6,408 (87%) are men.
29. At the local government level, 13 municipalities responded to the questionnaire, including Mitrovica, Ferizaj, Peja, Obiliq, Podujeva, Klllokot, Suhareka, Junik, Rahovec, Drenas, Skenderaj, Klina, and Deçan. Based on the data reported, women hold 36.4% of high-level decision-making positions, while men hold 63.6%. A similar distribution is observed at the mid-level leadership tier, where women account for 33.3% and men for 66.7%. However, women's representation is higher in lower, non-decision-making positions, where they constitute 51.7%, while men hold 48.3% of administrative and support roles.
30. The data provided by the Municipality of Prishtina has been analyzed separately from the other municipalities that responded to the questionnaire.² According to Prishtina's responses, women hold 46.67% of high-level decision-making positions, while men hold 53.33%. At the mid-level leadership tier, women account for 40.43% and men for 59.57%. In administrative/support staff roles, women constitute 48.59%, whereas men make up 51.41%.
31. The Municipality of Pristina has also provided data on its subordinate institutions, where women hold 52.38% of high-level leadership positions, while men hold 47.62%. At the mid-management level, women represent 60% and men 40%. In support/administrative staff positions, women account for 58.9%, while men account for 41.1%.

² The Ombudsperson received the completed questionnaire from the Municipality of Prishtina on October 30, 2024.

32. The Municipality of Pristina has provided information regarding employees from non-majority communities, totalling 14 employees, of whom 3 are women.
33. Gender representation in the judiciary, based on responses received from the Kosovo Judicial Council (KJC), is reported as follows. Within the Secretariat of the KJC, the highest position – the Director of the Secretariat – Is held by a man. Meanwhile, at the mid-management level, women constitute 38.8%, while men account for 62.2%. In support positions, women are represented by 53.7%, and men by 46.3%.
34. Regarding decision-making positions among judges, according to figures reported by the KJC, out of 10 courts exercising jurisdiction in the Republic of Kosovo – including the Supreme Court, the Court of Appeals, the Commercial Court, and the seven Basic Courts – 2 courts are reported to be led by female judges, while 8 are led by male judges. Similarly, among the 21 branches of the Basic Courts, 6 are overseen by female supervising judges, while 15 are overseen by male supervising judges. Although courts have deputy president positions in addition to their presidents, these were not reported in the KJC’s responses. Nevertheless, based on the data obtained through the questionnaire, among the 10 courts nationwide, the position of deputy president is held by 6 women and 4 men. Based on these figures, the gender ratio in leadership and supervisory positions within the judiciary reflects a representation of 34.1% women and 65.9% men.
35. Regarding data reported by the Kosovo Prosecutorial Council (KPC), the figures indicate a higher percentage of women engaged in decision-making positions. There are 2 women reported in high-level decision-making roles, with no men in these positions. Meanwhile, at the mid-management level, women constitute 41.5% and men 54.5%, whereas in support positions, women account for 55.6% and men for 44.4%. However, the KPC did not report the number or gender distribution of prosecutors.
36. The questionnaire was also answered by the Presidency, the Constitutional Court, and three independent constitutional institutions, including the Central Bank, the National Audit Office, and the Independent Media Commission.
37. Within the Presidential Institution, it has been reported that 30% of decision-making positions are held by women and 60% by men; in mid-level management positions, 56.3% are women and 43.8% are men; while in support positions, 47.1% are women and 52.9% are men. The data indicates that, apart from the high-level leadership positions where the gender disparity is the greatest, the other levels of the institutional hierarchy reflect a greater balance in terms of gender representation.
38. Similarly, within the Constitutional Court, the reported data confirm a higher percentage of women’s representation. Although the highest leadership position in this institution is held by a man, at the mid-management level—including lower management levels—women account for 66.7%, while men represent 33.3%. In support positions, women hold 51.3% and men 48.7%.
39. Regarding the independent institutions that responded to the questionnaire, the data indicate that in high-level leadership positions, women represent 36.8%, while men account for 63.2%. At the mid-management level, women hold 44.2% of these positions, while men hold 55.8%. In support positions, women account for 58.6% and men 41.4%. Consequently, these figures confirm that women’s engagement is primarily higher in lower levels of

institutional hierarchy, making them less represented in leadership or decision-making positions compared to men.

40. In addition to the data regarding the gender structure of participation and the representation of men and women in the country's institutions, the Ombudsperson has requested that institutions report on the measures they have undertaken to address gender inequality by answering the following two questions:
- 1) *Since 2015, has your institution or its subordinate institutions taken any special measures during the recruitment process to ensure equal representation of women and men, at a 50%-50% ratio?*
 - 2) *Has your institution developed any special programs (strategies or other internal policies) to help and support the increase of participation of the underrepresented gender in your institution?*
41. Out of 50 reporting institutions, the majority, specifically 41 institutions, have responded negatively to both questions. Meanwhile, 2 institutions reported having undertaken special measures and developed strategies to increase the participation of the underrepresented gender (the Ministry of Justice and the Kosovo Police); 6 institutions (the Constitutional Court, the Prime Minister's Office, the Municipality of Junik, the Municipality of Obiliq, the Energy Regulatory Office, and the Transmission, System, and Market Operator J.S.C. (KOSTT)) reported having developed only special programs to help increase the participation of the underrepresented gender; and 1 institution reported having taken special measures to achieve gender equality between the two genders (the Kosovo Police Inspectorate).
42. The Ministry of Justice, as an institution that has taken affirmative actions and developed pro-gender policies, reported that these measures were undertaken within one of its sectors – that of the Kosovo Correctional Service. According to the reported information, the Correctional Service, with the aim of increasing the number of women in this institution, announced a competition in 2021 for 50 correctional officers from the female gender. Furthermore, in 2022, the same institution developed a plan for the inclusion of women in leadership positions within the Correctional Service. However, since the Ministry of Justice encompasses several sectors, both in the form of subordinate institutions and in the form of delegated competences within the framework of free professions, it has not reported following the same approach as in the case of the Correctional Service, with the aim of addressing gender inequalities across all its sectors, through actions or policies dedicated to increasing the representation of women.
43. Similarly, the Kosovo Police reported on the special measures that have been implemented in the recruitment and employment process in the Kosovo Police, so that during the recruitment process for police officers, 70% priority is given to female candidates among all candidates who meet the requirements and pass the eligibility threshold. Additionally, apart from the affirmative actions within the recruitment processes, the Kosovo Police reported having developed the Gender Equality Agenda in the Kosovo Police and the 2021-2023 Action Plan, and is currently working on drafting the new Agenda and Action Plan for the years 2024-2027.

44. Other institutions that have reported on the development of gender equality strategies, such as the case of the Office of the Prime Minister (OPM), have reported strategies/policies that address community issues and challenges, but not specifically targeting the representation of women within their institutions. In this particular case, the OPM reported that the Government of the Republic of Kosovo has approved the Kosovo Program for Gender Equality (KPGE). Developed by the Agency for Gender Equality, which functions within the OPM, the KPGE addresses priority areas at the national level for the empowerment of women's position in society. However, beyond the KPGE, which is a legal obligation arising from the Gender Equality Law, regarding the representation of women within the OPM's subordinate institutions, at all levels of the institutional hierarchy, and specifically in high leadership positions (including positions of Secretaries General and Executive Directors), the OPM has not reported having undertaken any initiative or special measures to ensure equal representation of men and women in these positions.

V. ASSESSMENT AND FINDINGS OF THE OMBUDSPERSON

45. The Gender Equality Law is one of the laws within the human rights legal framework, which, together with the Ombudsperson Law and the Law on Protection from Discrimination, was approved in 2015. The entry into force of these three laws resulted in the advancement of the legal framework for human rights in the Republic of Kosovo. Initially, they provided greater legal guarantees for citizens and other entities, in the context of protecting their fundamental rights and freedoms, while also enabling institutions to have a broader scope of action in their efforts to combat gender discrimination and, consequently, achieve de facto equality between men and women in all spheres of life.
46. As emphasized above, the Gender Equality Law specifically requires: “(...) *other public institutions shall be obliged to adopt and implement special measures to increase representation of underrepresented gender, until equal representation of women and men according to this Law is achieved.*” emphasizing that “*Equal gender representation in all legislative, executive and judiciary bodies and other public institutions is achieved when ensured a minimum representation of fifty percent (50%) for each gender, including their governing and decision-making bodies.*”
47. According to the data and figures collected and analyzed for the purposes of this report, if these are taken as a sample to reflect the general trend of (in)equality between genders within institutions at all levels and powers in the Republic of Kosovo, statistics show a lower representation of women compared to men. Divided into three main levels of institutional hierarchies – senior management level, middle management level, and support staff – the figures indicate an unequal gender representation.
48. On average, high leadership positions continue to be predominantly represented by men, with 77.1% of these positions held by men, and only 22.9% held by women. Meanwhile, at the other two levels, based on the data, women make up about 31% of the positions, and men about 69%. As a result, it can be concluded that the state administration is predominantly male, especially in high decision-making positions.
49. It is worth noting that, in addition to gender structure, the Ombudsperson has also analyzed data regarding ethnic representation. In this case, although the data reporting has been

inconsistent among reporting institutions, based on the analysis of the received data, it is observed that women from ethnic minorities are underrepresented compared to men.

50. In this context, it is worth noting that the latest European Commission report on Kosovo has emphasized the fact that *“there have been continuous efforts to improve gender equality, but Kosovo needs to strengthen the implementation of legislation.”*³
51. Furthermore, the issue of affirmative actions was also highlighted in the same report, specifically focusing on the local level, emphasizing that *“women continue to be underrepresented in decision-making bodies at the local level. Affirmative measures are necessary to ensure equal representation of women and men in local governance.”*⁴
52. The report also emphasizes the issue of female representation within the judicial and prosecutorial systems, pointing out that *“Kosovo still has a low percentage of female judges and prosecutors compared to most European countries.”*⁵
53. According to the figures presented in the report, out of the total number of prosecutors, 82 are women and 116 are men, which means 41.4% women and 58.6% men. Similarly, within the judicial system, there are 155 female judges and 288 male judges, which means 35% women and 65% men among judges.
54. On the other hand, from the reports of institutions within the questionnaire, it is also noted the lack of knowledge that institutions and/or their representatives have regarding the Law on Gender Equality and the obligations that arise from it.
55. The most frequent responses found during the analysis of institutions’ answers to the question regarding the undertaking of special measures were responses like: *“staff recruitment procedures are based on public announcements, following the legal procedures in force, where everyone has the right to compete equally.”* This, although confirming that institutions are complying with their legal obligations regarding recruitment procedures, simultaneously confirms the lack of knowledge regarding the concept of justified different treatment.
56. As a result, the concept of justified different treatment, both as a legal and constitutional concept, as well as special measures, also known as affirmative actions, appear to be mostly unknown to the majority of institutions. While they continue to be misunderstood, they risk remaining unenforced. Consequently, such situations contribute to the perception that the Republic of Kosovo has an advanced legal framework, but one that fails to be implemented in practice.
57. In this regard, the Ex-post Evaluation of the Law on Gender Equality, carried out during 2017-2018 by the Agency for Gender Equality within the Office of the Prime Minister, identified two main obstacles: *1) Regarding recruitment, in most cases the procedures refer to and are justified according to the Civil Service Law (as the applicable law at the time of the ex-post evaluation), where the principle of equal opportunities is balanced with meritocracy.* Furthermore, it was cited that interviewees stated, *“So we chose the best candidate according to the Civil Service Law, and it turned out that he was a male”*; and

³ European Commission Report on Kosovo 2023, p. 5

⁴ Ibid., p.10

⁵ Ibid., p.20

2) *There is a noticeable lack of awareness and knowledge applied among institutional management actors about the practical requirements for implementing the Law on Gender Equality in internal institutional governance, sectoral policies, and relevant public services.*⁶

58. The Law on Gender Equality enjoys the status of *lex specialis* and, as such, must be treated as a matter of gender equality, taking precedence over the general legislation governing recruitment procedures within state institutions.
59. As an obligation arising from the Law on Gender Equality, in addition to specific measures, there are also general measures for the prevention of gender-based discrimination and ensuring gender equality, as outlined in Article 5 of the Law. It explicitly requires institutions of the Republic of Kosovo at all levels of legislative, executive, judicial, and other public institutions to implement: *“1.3. gender mainstreaming of all policies, documents and legislation; 1.4. ensuring that the selection, recruitment and appointment processes, including for leading positions, are in line with the requirement for equal representation of women and men.”*
60. In other words, institutions or bodies at all levels, which formulate and approve public policies, are obligated to transpose and reflect the principles of the Law on Gender Equality in new legal initiatives, as well as in secondary legislation, thereby addressing gender inequalities in the relevant areas.
61. A concrete example in this case could be the internal acts of the Judicial Council of Kosovo, which are formulated and approved by this institution. Integrating a gender perspective in the context of the organization and functioning of courts would imply that the formulation and approval of the relevant secondary legal act would first be preceded by an assessment of the gender representation situation. Based on the analysis of gender-disaggregated data, unequal gender representation in judicial positions, presidents and deputy presidents of courts, as well as supervisory judges (as seen in the data presented in this report), would be identified. Consequently, addressing this inequality should be reflected in provisions that guarantee the representation of the underrepresented gender or even allow the Council to undertake specific measures as needed until factual equality between the two genders is achieved in the judiciary.
62. To further contextualize the above example, although *de facto*, most of the deputy president positions in courts are currently held by women, the most recent appointment of the deputy president in the Commercial Court highlights the importance and need for legal guarantees to ensure continuous equal representation of both men and women in leadership positions within the judiciary. The position of deputy president in the Commercial Court was held by a woman until her resignation. Meanwhile, although the position of president of this court is held by a man, the Judicial Council of Kosovo, in the position of the new deputy president, appointed a man to this role, making both leadership positions in the Commercial Court now represented solely by the male gender.
63. Consequently, the above example illustrates the general approach that the country’s institutions should follow. It also confirms the urgent need for the transposition of the

⁶ Law on Gender Equality 2015 Ex-Post Regulatory Impact Assessment, Agency for Gender Equality / Office of the Prime Minister, p. 48.

principles and obligations of the Law on Gender Equality within the regulatory framework, as well as the undertaking of specific measures, which are crucial for the implementation of the law and the faster realization of gender equality in the institutions of the Republic of Kosovo, enshrined and promoted as a constitutional value of our society.

The Ombudsperson, based on what has been stated above, in accordance with Article 135, paragraph 3, of the Constitution of the Republic of Kosovo: *“The Ombudsperson is eligible to make recommendations and propose actions when violations of human rights and freedoms by the public administration and other state authorities are observed.”* According to the interpretation of Article 18, paragraph 1.2, of Law no. 05/L-019 on the Ombudsperson, the Ombudsperson: *“(…) to draw attention to cases when the institutions violate human rights and to make recommendation to stop such cases (…);”* as well as: *“to recommend (…)* promulgation or amendment of administrative and sub-legal acts by the institutions of the Republic of Kosovo;” (Article 18, paragraph 1.7).

Therefore, the Ombudsperson hereby

RECOMMENDS

To the Assembly of the Republic of Kosovo:

1. Harmonize the Rules of Procedure and the selection procedures for high-level leadership positions within independent institutions and agencies with the Law on Gender Equality.
2. Ensure the establishment of a standard procedure for the Commission for Human Rights, Gender Equality, Missing Persons, and Petitions to review the integration of the gender perspective in the legislative initiatives submitted to the Assembly.

To the Government of the Republic of Kosovo:

1. Ensure that the relevant legislation for state administration employees is in harmony with the Law on Gender Equality.
2. Address gender disparities in high leadership positions by implementing special measures until equal representation of men and women in decision-making positions is achieved.
3. Draft a circular for ministries and other subordinate institutions on addressing gender inequality at various levels within internal bodies and their subordinate bodies, through the adoption of special measures.
4. Ensure reporting of the special measures undertaken by the central and local government institutions to the Agency for Gender Equality.

To the Ministry of Local Government Administration:

1. Draft a circular for the local level on addressing gender inequality at various levels within the respective local bodies, through the adoption of special measures.

To the Agency for Gender Equality:

1. Instruct gender equality officers at the central and local levels to organize informational sessions/trainings for the relevant institutions regarding the obligations of institutions under the Law on Gender Equality, including special measures.

To the Judicial Council:

1. Ensure the inclusion of legal guarantees for gender equal representation within the internal regulatory framework, in accordance with the Law on Gender Equality.
2. Ensure the recruitment or appointment of an officer for gender equality issues.
3. Ensure that all data collected, reported, and analyzed by all courts is gender-disaggregated, including the Commercial Court.

To the Prosecutorial Council:

1. Ensure the implementation of legal guarantees for gender equal representation within the internal regulatory framework, in accordance with the Law on Gender Equality.
2. Ensure the recruitment/appointment of an officer for gender equality issues.

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.”*) and Article 28 of Law no. 05/L-019 on the Ombudsperson (*“Authorities to which the Ombudsperson has addressed recommendation, request or proposal for undertaking concrete actions, including disciplinary measures, must respond within thirty (30) days. The answer should contain written reasoning regarding actions undertaken about the issue in question.”*), kindly inform us of the actions you will undertake regarding this matter.

Respectfully,

Naim Qelaj
Ombudsperson