

# SOCIAL PROTECTION AND ACCESS TO HEALTHCARE FOR TRANSGENDER PEOPLE IN KOSOVO

CSGD & CEL

November 2016



An EU funded project managed by the  
European Union Office in Kosovo

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## EXECUTIVE SUMMARY

In the last couple of years the predicament of the LGBT community has come to light and the issues faced by the community are being discussed more openly. Transgender persons are just one part of that community and due to a lack of understanding they remain as individuals who are misunderstood and are likely to face discrimination in different spheres of life.

It is with such a situation and conditions in mind that this research was commissioned. It considers the different elements that make up the umbrella term transgender, as well as the legal framework, the experiences of some transgender persons (albeit limited), as well social protection and access to healthcare.

As a term transgender encompasses different methods in which an individual can express their gender identity. This may be on a temporary basis as a cross dresser or transvestite or it could be on a permanent basis having undergone hormonal treatment and surgery. The lack of understanding as to why an individual may want to express a different gender identity is one of the causes of prejudice.

Transgender persons involved in this research provide some insight into how they have gone about to express their gender identity with the majority of cases being through dressing in the opposite gender. This resulted in not only misunderstanding but also rejection. Yet what is exceptionally important to note is the consequences of none acceptance or rejection which can include self harm or suicide.

Apart from a general understanding of the issues, the legal framework can be an enabler or disabler depending on the approach it takes towards transgender persons. Kosovo's legal framework provides some good foundations where the rights of transgender persons are either recognised or there is scope for interpretation. In practice it would only be certain rights that would be effective such as relying on the Protection from Discrimination Law. However, as is the case with any complainant in the justice system the backlog in getting the case to court may be a barrier. At the same time with such cases there are a vast number of issues that would require consideration such as legal assistance and potentially ensuring confidentiality throughout the proceedings. In this regard improvements can be made and this report highlights some of those.

At the same time the duty bearers whose responsibility it is to provide services can also have a significant impact. On this basis two spheres were considered in detail that of social protection and health. The purpose was to establish the conditions present and in particular the viewpoints of professionals who have a key role in discharging duties in social protection and healthcare.

With regard to social protection at present there does not seem to be a lot of impetus on dealing with this issue or even identifying it as an issue that needs to be addressed. However, the social workers interviewed provided interesting viewpoints relating to services for transgender persons. For some the matter of assistance required a human rights focused approach, others saw it as providing services to individuals like any other class of the public. The majority display a general acceptance of transgender persons, although it is not clear as how honest such viewpoints are.

In healthcare, health professionals had some awareness of the issues and what their role would be. Some had a limited knowledge of the legal framework. However, quite a number also committed

they would assist an individual who wanted more information relating to transitioning. Further, there was a general willingness amongst some of the professionals that they or science should be grappling with these issues on behalf of patients. On the other hand some health professionals openly expressed their disagreement with such a move. Others also questioned the role that health professionals have and have openly expressed disagreement with transgender rights. However, the majority of social workers and health professionals saw the benefits of training, as well as working in multidisciplinary teams to support individuals affected.

The report concludes that whilst we may see some areas that have progressed, we should not be satisfied where more could have been done. In this regard the report provides number recommendations, which if followed through would further the rights of individuals to their private life and to live a life in dignity.



## INTRODUCTION

The predicament of transgender<sup>1</sup> persons in Kosovo is not well documented. Previous research into the freedoms and protection for lesbians, gays, bisexual and transgender (LGBT) found that rights of the LGBT community have been neglected with limited attention being given by state institutions and no visible signs of the LGBT community in public life.<sup>2</sup>

In order to shed light on the perceptions and experiences of transgender persons and their treatment in the sphere of social and legal protection and healthcare, this report seeks to contribute towards providing an insight into the prevalent issues and seeking changes where necessary with the view to improve the ability of transgender persons to express their gender identity.

An integral aspect of this, however, is the society in which a transgender person seeks to express his or her or other identity. The limited exposure of Kosovar society to this subject matter and the general intolerance that exists towards anything that is different means that it is far from easy for a transgender person to explore and indeed express his, her or other gender identity. It is with such conditions in mind that this research is necessary and it focuses on social protection and healthcare because these are two spheres which can have a detrimental impact on transgender persons, and their journey depending on how services in these fields are organised and whether discrimination is part and parcel of the services and/or protection that is provided. At the same time an understanding of the key terminology relating to transgender persons is also necessary with the view to increasing awareness and understanding among duty bearers, stakeholders and the public at large.

To have an understanding of the term transgender it is necessary to consider two characteristics; sex and gender identity. Sex is a characteristic that is assigned at birth as each of us is born male or female based on biological characteristics.<sup>3</sup> Gender identity on the other hand is an individual's internal sense of being male, female, both, neither or something else which is not necessarily visible to others unless expressed. For most people sex is determined at birth and they lead their lives in their assigned sex which corresponds to their respective gender identity. Transgender comes from the Latin word trans meaning "across". Persons who describe themselves as transgender means when an individual's gender identity, expression or behaviour is not in accordance with their sex assigned at birth.<sup>4</sup>

According to the World Health Organisation "transgender is an umbrella term .... It includes people who are transsexual, transgender, or otherwise considered gender non-conforming".<sup>5</sup> It may also refer to other identities such as gender variant, gender queer and cross-dresser. The process through which an individual may choose to express their gender identity where it is different to their sex is referred to as transitioning. This may involve changing how an individual dresses or

1 This report and CSGD has used the word transgender throughout this report as it believes this to be the most inclusive term. Other terms such as transsexual or transvestite are used due to their historical use in determining what understanding interviewees have of the issues facing the transgender community

2 Youth Initiative for Human Rights Kosovo, 'Freedom and Protection for Lesbians, Gays, Bisexual and Transgender in Kosovo', November 2013, available at [http://ks.yihr.org/public/fck\\_files/ksfile/LGBT%20report/Freedom%20and%20Protection%20for%20LGBT%20in%20Kosovo.pdf](http://ks.yihr.org/public/fck_files/ksfile/LGBT%20report/Freedom%20and%20Protection%20for%20LGBT%20in%20Kosovo.pdf) accessed on 01/10/2016

3 With the exception of individuals who are intersex and assignment of sex is more complex

4 National Centre for Transgender Equality, Transgender Terminology, available at <http://www.transequality.org/issues/resources/transgender-terminology> accessed on 01/10/2016

5 World Health Organisation, available at <http://www.who.int/hiv/topics/transgender/en/> accessed on 01/10/2016

grooms, or changing their first name. It may also involve taking steps to change their identity documents to reflect their gender identity. Some transgender persons may decide to seek medical treatment such as hormone therapy or surgery.

There has also been a shift among health professionals as to how transgender individuals are viewed regarding treatment that is provided. For example the American Psychiatric Association in its Diagnostic and Statistical Manual of Mental Disorders (DSM-V) referred to individuals having feelings of another gender as suffering from a "gender identity disorder". This has since been changed and instead it is referred to as "gender dysphoria", which is used to describe emotional distress. This was viewed necessary to move away from the use of terminology such as disorder which can be stigmatising towards transgender persons and only focuses on a mental health diagnosis.<sup>6</sup>

Being transgender as a concept or experience it is claimed remains mystifying or even offensive to people.<sup>7</sup> Not identifying with your assigned sex may be perceived as different by society at large, although over the years through better understanding there has been an increase in acceptance of individuals to be able to live their lives in the gender identity that best represents them. It is important that such acceptance becomes common in all communities because at the heart of transgenderism lies an individual's struggle to find their way through life, being themselves and being content.<sup>8</sup>

This report seeks to bring to the forefront information relating to transgender persons in Kosovo. It begins with a description of the methodology that was used for this research. As the legal framework can either enable or prohibit transgender persons from expressing their gender identity this is considered. Of equal importance is access to social protection and healthcare, which are considered by looking at perceptions of those whose duty is either to provide social protection or healthcare. Perceptions and a lack of understanding of transgender persons can also have a negative impact and this was explored through focus group discussions. Following analysis of the results of the research a conclusion is provided and recommendations provided.

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6 "The APA Removes "Gender Identity Disorder" from Updated Mental Health Guide", available at <http://www.glaad.org/blog/apa-removes-gender-identity-disorder-updated-mental-health-guide> accessed on 28/11/2016

7 Teich N, 'Transgender 101: A Simple Guide to a Complex Issue', Foreward

8 Ibid, Introduction

## METHODOLOGY

The research for this report was considered necessary in light of the limited attention to the matter of transgender rights and experiences whether in legislative, policy terms or public discourse in Kosovo. The approach taken consisted of desk review and field research.

The field research consists of:

- Focus group;
- Interviews with social protection officials; and
- Interviews with health professionals.

The focus group was small and does not have the ability to provide a representative sample. There is no official data relating to individuals that identify as transgender. The first post-conflict census does not ask for any information relating to sexual orientation including an individual identifying as transgender.<sup>9</sup> During the planning stage of the research a wider group consisting of members of the LGBT community was going to be invited to the focus group. However, following further consideration to ensure qualitative outcomes it was decided that only individuals who identified or had identified as transgender were invited. This greatly reduced the number from approximately 20 to 3. To ensure that the focus group was structured a questionnaire was used and it was conducted on an anonymous basis to ensure that a safe and open space was created for views to be expressed. The focus group was held in Pristina and this was chosen so that a known location for the community could be used.

Interviews using questionnaires with social protection officials consisting of social workers were conducted on an anonymous basis to ensure that frank discussions could take place. Interviews took place in the seven main regions of Kosovo including; Pristina, Peje, Gjakova, Mitrovica, Ferizaj, Prizren and Gjilan. These regions were also used to conduct interviews with health professionals. The interviews were also conducted using a questionnaire and on an anonymous basis to ensure frank opinions would be provided. Health professionals were selected on the basis of medical specialisms a transgender person may call up on. However, as specialisms were not equally represented throughout the regions, a more pragmatic approach was required.

Statistically, the number of participants in the focus group and the professionals interviewed is relatively small. It is arguable that the sample used is not representative nationally and this limitation is accepted. At the same time there are identifiable constraints which have had an impact. One of such is the lack of an open transgender community, which makes it very difficult to have consulted such members either through a focus group or interviews. With targeted professionals, they represent a better sample as they focus on the two spheres that this report pays attention to and the particular areas of expertise was carefully selected. However, even this sample in order to be representative nationally could be improved in order to capture views at local levels within each of the regions.

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<sup>9</sup> Kosovo Agency of Statistics, Census 2011, available at <http://askdata.rks-gov.net/PXWeb/pxweb/sq/askdata/> accessed on 28/11/2016

## **THE LEGAL FRAMEWORK**

### ***Constitution***

As a constitutional democracy, Kosovo's constitutional values include equality, respect for human rights and non-discrimination which project a clear message that all of its citizens should be treated equally, their human rights respected and without discrimination.<sup>10</sup> Such values are entrenched into constitutional rights such as equality before the law which provides all are equal before the law and everyone enjoys the right to equal legal protection without discrimination.<sup>11</sup> Further it provides that no-one shall be discriminated on the basis of a range of characteristics including gender or other personal status.

Constitutional and human rights within the national legal system are further strengthened by the direct applicability of international human rights agreements and instruments such as the European Convention on Human Rights (ECHR) among others. In the event of conflicting provisions in the human rights field between national measures and rights protected by such agreements or instruments, it is the latter which shall prevail.<sup>12</sup> Another important aspect of the constitutional framework is the interpretation of constitutional and human rights. In this regard the Constitution provides that human rights and fundamental freedoms guaranteed by the Constitution are to be interpreted consistently with the court decisions of the European Court of Human Rights (ECtHR).

While the Constitution does not specifically refer to transgender or gender identity, it is arguable that it does provide an important framework where rights of transgender persons are protected. Firstly, the Constitution provides the right for everyone to enjoy equal legal protection without discrimination and this is inclusive of transgender persons. In cases where the law does not provide such equal protection, it is arguable that this is contrary to that which is provided by the Constitution. Secondly, the prohibition of discrimination by referring to gender or other personal status provides scope for discrimination on the basis of one's gender identity to be prohibited. Thirdly, the interpretation of these rights to be conducted in accordance with international human rights agreement and consistently with the decisions of the ECHR provides further scope for transgender rights to be protected in Kosovo.

### **Legislation**

As this reports aims to shed light on the rights of transgender persons with regard to access to healthcare and social perception, various pieces of legislation are relevant which will be explored in turn.

#### **Law on Protection from Discrimination**

One of the key pieces of legislation that is of relevance in ensuring sufficient protection in various spheres is provided for in law for transgender persons is the Law on Protection from Discrimination.<sup>13</sup> Kosovo has had legislation prohibiting discrimination since 2004<sup>14</sup> which

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<sup>10</sup> Constitution of the Republic of Kosovo, Article 7 (1)

<sup>11</sup> Ibid, Article 24 (1)

<sup>12</sup> Ibid, Article 22

<sup>13</sup> Law No. 05/L-021

<sup>14</sup> Law No. 2004/3, Law against Discrimination

provided an important framework in prohibiting discrimination in a range of areas. However, as is the case with much of Kosovo's legal framework there were problems in implementation.<sup>15</sup>

The latest piece of legislation is important in that it improves certain aspects of the old law in particular it prohibits discrimination on the basis of sex, gender or gender identity among others.<sup>16</sup> By providing for these characteristics it ensures that transgender persons are covered by the provisions of this piece of legislation.

Its applicability is of significance as it covers acts or omissions of all state institutions, natural and legal persons and the public and private sector. As such it is not just government institutions or state owned enterprises that need to ensure they act in accordance with the law, private companies are equally responsible. Furthermore, the prohibition applies in relation to a range of areas such as; employment (including access, conditions, promotions etc), vocational guidance and training, social protection (including social assistance, social security and health protection), social advantages, social amenities, education, access to housing, access to goods and services available to the public, fair treatment in court proceedings, participation rights in science and culture, personal insurance, participation in public affairs, access to public places and any other right provided for by law.<sup>17</sup>

The different areas are important because transgender persons may encounter discrimination in a range of contexts including accessing healthcare or social protection, as well as employment, education, vocational training, in accessing housing, public places, buying goods or services available to the public. Similarly, the recognition of any other rights provided for by law is important to ensure that such rights are also enjoyed without discrimination. For example, one of the areas where transgender persons may encounter difficulties may be obtaining recognition of their gender identity and in such a situation these provisions would be important in obtaining an outcome free from discrimination.

### *Law on Civil Status*

Civil status registration is regulated by the Law on Civil Status.<sup>18</sup> This provides that all civil status activities are to be undertaken in compliance with the law and sub-legal acts, recording of registered events is compulsory and data subjects shall actively register each change affecting civil status.<sup>19</sup> The information used to constitute civil status includes: personal name, personal identification number, birthday, place of birth, sex, citizenship, paternity and maternity reports, marital status, death, residence, domicile and other facts provided by law.<sup>20</sup>

From these characteristics some of the information such as name and sex 'may be removed, abolished, changed....only in cases and manner expressly provided in this law or any other specific law'.<sup>21</sup> At the same time the law also makes reference to information which stems from natural events by stating 'birth, time of birth, sex...are regularly verified as legal facts, from persons or bodies to whom this right is designated in accordance with applicable legislation'.<sup>22</sup> For the

15 Youth Initiative for Human Rights – Kosovo, 'Anti-Discrimination Law in Kosovo – Seven years on', December 2011, available at [http://ks.yihr.org/public/fck\\_files/ksfile/Anti-Discrimination%20Law%20in%20Kosovo%20-%20seven%20years%20on.pdf](http://ks.yihr.org/public/fck_files/ksfile/Anti-Discrimination%20Law%20in%20Kosovo%20-%20seven%20years%20on.pdf) accessed on 01/10/2016

16 Article 1, Law on Protection from Discrimination

17 Ibid, Article 2

18 Law No. 04/L-003

19 Article 3, Law on Civil Status

20 Article 9 (1), Ibid

21 Article 10, Law on Civil Status

22 Article 11, Ibid

registration of a birth where sex is recorded this is to be verified by a medical report or minutes drafted at the time of birth. The verification of the birth if not in a hospital can be done by other officials or through the Civil Status Office. In the event that there is a disorder with the genital organs of a child, gender shall be established by a medical report.<sup>23</sup>

Following registration, a birth certificate is issued where sex among other information is listed<sup>24</sup> and this data on the birth certificate may be amended by an official of the Civil Status Registry in cases expressly provided for in the Law on Civil Status or any other law.<sup>25</sup> Importantly what the law recognises is that it is possible to amend information recorded on a birth certificate which would include sex and this is a positive development. However, as this is only permitted if specified within the Law on Civil Status or any other law and this is not currently provided for in the short term this would be difficult to achieve. On this basis it may be necessary to ensure that this is elaborated upon whereby a transgender person may be able to rely on a process where he or she r can change their sex (through gender reassignment)to align it with their gender identity. Having considered the sub-legal acts specified in the Law on Civil Status the process of gender reassignment is not a matter that is provided for as a matter that should be resolved through a sub-legal act. On this basis it may require specific legislation to enable gender reassignment in law which could cover correction of data on public registers and documents , as well as alignment with all other data held regarding that individual whether relating to social security, pensions or taxation.

### ***Social Protection***

The Law on Social and Family Services provides that the Ministry of Labour and Social Welfare (MLSW) is responsible for organising the provisions of social and family services in Kosovo and in so doing to ensure fair and equal access without any distinction of any kind such as on the basis of sex or other status. Similarly, the MLSW is responsible for developing policies and strategic plans for provision of such services and that such policies and strategic plans are put into operation by municipalities.<sup>26</sup>

At the local level, it is the role of the municipality to provide social and family services to a standard specified by MLSW. Each directorate is under an obligation to take steps to identify the nature and extent of the need for social and family services. There is a wide range of services that may be provided but for the purpose of this report that which is likely to be of relevance is counselling services.<sup>27</sup> The provision of services to adults is specifically provided for within the law by referring to social care, counselling and in exceptional circumstances material assistance.<sup>28</sup>

The above mentioned provisions provide some obligations for duty bearers to take steps to identify services that may be needed and offer services within their remit. Of relevance for the purposes of this report is counselling, although there insufficient public records to determine whether this is systematically considered or implemented.

Another piece of legislation that is relevant is the Law on the Social Assistance Scheme in Kosovo. This establishes a means tested social assistance scheme, although this is limited to families falling into two categories; those families with dependants who are unable to work or where there is an individual family member who is able to work but has a child under the age of 5 or

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23 Article 32, Ibid

24 Article 36 (3) (6), Ibid

25 Article 38,Ibid

26 Article 2, Law on Social and Family Services, Law No. 02/L-17, as amended in 2012

27 Article 6, Ibid

28 Article 12, Ibid

cares for an orphan under the age of 15.<sup>29</sup> It is thought that the social assistance scheme is so restrictive due to a lack of financial means, although as currently structured it ignores individuals in need. In the event that an individual is in need of financial assistance, the only assistance that may be available may be discretionary or they would have to rely on a charity or family. For some individuals such as those in vulnerable state this may be particularly problematic.

## Healthcare

The Law on Health<sup>30</sup> provides that all citizens and residents have an equal right of access to healthcare<sup>31</sup> and ensuring healthcare without discrimination on the basis of range of characteristics including gender.<sup>32</sup> Financing of healthcare is a combination of financing by the budget and the health insurance system (public and private).<sup>33</sup> The health insurance has been established through the Law on Health Insurance.<sup>34</sup> Equal treatment and non-discrimination is also provided for in regards to mental health services.<sup>35</sup>

Whilst these legislative acts provide for non-discriminatory treatment, their main focus is to contribute towards establishing the healthcare system with the latest measure focusing on establishing the health insurance system. Currently the Ministry of Health does have a strategy in place (2012 – 2016), which identifies certain priorities such as raising capacities,<sup>36</sup> although it does not focus on any particular groups that may be disadvantaged in accessing healthcare of face barriers in access. As this strategy is coming to an end, it would be appropriate that in future strategies the needs of vulnerable groups are identified and action is targeted to address vulnerabilities as well as remove barriers.

### *Analysis of legal framework*

With regard to the legal framework, a number of legislative acts are in force. Some provide for comprehensive protection such as the Law on Protection from Discrimination, whereas other could be improved with further regulation such the Law on Civil Status. The legislation dealing with social protection provides some scope in relation to services that should be offered to adults but this could be supplemented through policy documents where vulnerable groups are identified. This is also reflected in healthcare where more attention should be paid to marginalised groups through policy initiatives.

The real test of any of these provisions would of course be at enforcement stage either within the respective institutions or where challenges arose for certain rights not being sufficiently provided for or implemented. Unfortunately to date this has not occurred with regard to transgender rights and in light of this gap even though improvements to the current framework could be made, the struggles faced by transgender persons from further afield considered. These provide an insight as to how different systems have dealt with such issues through the ECtHR. This is relevant because some of these problems are either in existence or may arise in Kosovo and the decisions of the Court are directly applicable should such a matter go before Kosovar courts.

<sup>29</sup> Article 4, Law on Social Assistance Scheme in Kosovo, Law No. 2003/15, as amended in 2012

<sup>30</sup> Law No. 04/L-125

<sup>31</sup> Article 4 (2), Law on Health

<sup>32</sup> Article 5 (1) (2), Ibid

<sup>33</sup> Article 55 (1), Ibid

<sup>34</sup> Law No. 04/L-249

<sup>35</sup> Article 5, Law on Mental Health, Law No. 05/L-025

<sup>36</sup> Available at <http://www.kryeministri-ks.net/repository/docs/Strategjia-e-permiresimit-te-cilesise-dhe-sigurise-se-shqip,serb,ang-2012-2016.pdf> accessed on 01/10/2016

## Decisions of the European Court of Human Rights

Legal provisions in any legal instrument whether international or national are drafted in abstract terms. This is necessary in order for such provisions to be able to be interpreted in light of changing conditions and for such provisions to serve the test of time. One of such provisions is Article 8 which provides that everyone has the right to respect for his private and family life, his home and his correspondence and that this right can only be limited in accordance with the law and in limited circumstances. The interpretation of this provision is especially important in light of the rights of transgender persons.

One of the first cases to be decided by the European Court of Human Rights is that of *Rees v United Kingdom* in 1986<sup>37</sup>.

At birth the applicant Brenda Rees had all the physical and biological characteristics of the female sex and was registered as female. However, at an early age as a child he started to exhibit masculine behaviour and after understanding being transsexual was a medically recognised condition he sought treatment. This included hormonal treatment and surgery which were funded through the National Health Service and changed his name to Mark Rees. He applied for his passport to reflect his change in gender identity where the change of name was accepted. Despite continuing to live his life as a man and being accepted as such he was not able to obtain a correction of his sex on his birth certificate which continued to state that he was female. On this basis he argued that national legal measures prevented him to enjoy his right to private and family life and his right to marry and found a family.

The applicant was seeking amendments to the register on the basis that doing this would ensure enjoyment of his human rights and there were no justifications on any ground of public interest. The Commission which dealt with the case prior to it reaching the ECtHR agreed with the applicant on his assessment of the situation. However, the Court did not accept this reasoning and instead held that requiring the United Kingdom to fundamentally change the system of recording information on birth certificates imposed a burden and a new duty. It did take into account the fact that the medical treatment was funded by the state and the various other measures permitted such as change of name. Despite finding that there was no violation of the right to family life, the Court was conscious of the problems affecting transsexuals and recommend keeping measures under review in light of scientific and societal developments. With regard to the right to marry and found a family, the Court also found that there was no violation on the basis that marriage was a traditional concept between two people of the opposite biological sex and states had the right to regulate the right to marry.

Undoubtedly this was a blow to this applicant's fight to have his gender identity recognised and this had implications for other individuals in a similar situation in the United Kingdom and other states who applied the Court's jurisprudence. This line of reasoning was followed in other cases such as *Cossey v United Kingdom*<sup>38</sup>. However, the Court changed its approach somewhat in the case of *B v France*.<sup>39</sup> The applicant was born a boy but adopted female behaviour from an early age and later received hormone therapy, as well as surgery and started living as a woman.

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37 *Rees v United Kingdom*, Application No. 9532/81, 17 October 1986

38 Application No. 10843/84, 27 September 1990

39 Application No. 13343/87, 25 March 1992



However, she was unable to rectify her civil status documentation to indicate the change she had undergone and argued before the Court that this resulted in her right to a private and family life being breached. The Court found that this case could be distinguished from its previous decisions in *Rees* and *Cossey* on the basis that the French system of birth registration was one that permitted updates throughout a person's life. It also noted that the applicant's sex had been amended in some official documents such as social security documents and this made daily life very difficult for the applicant. On this basis the Court held that the authorities' refusal to change her sex where such documents permitted changes resulted in the applicant's right to a private and family life being breached.

The Court took this further in the case of *Christine Goodwin v United Kingdom*<sup>40</sup> where it finally reversed its previous finding from *Rees* and *Cossey*.

The applicant, Christine Goodwin was assigned male at birth, married to a woman and had children. From a young age she had a tendency to dress as a woman and as an adult she had hormone therapy and started living as a woman, as well as gender re-assignment surgery provided and paid for by the National Health Service. She divorced from her former wife but enjoyed the love and support of her children. At work she was sexually harassed by colleagues and attempted to pursue a case of sexual harassment but was unsuccessful as in law she was considered a man. She was also dismissed from her job for health reasons but she claimed it was because she was a transsexual. As her sex was reflected in her national insurance number and the respective government department refused to amend it, she experienced problems in a new place of work. She was also told that she would not be eligible for the state pension until she was 65 (the pension age for men) as oppose to 60 (the pension age for women) as again her sex remained that which was recorded when born of male. She had to forego a number of benefits due to her sex being recorded as male when in reality she was living as a female and was not in a position to have this change reflected in her documentation. The applicant argued that the lack of legal recognition of her changed gender and her treatment in employment, social security and pension rights resulted in her right to a private and family life and the right to marry and found a family being violated.

The Court noted the difficulties and anomalies the applicant and others in her situation face. Yet the very essence of the Convention said the Court is respect for human dignity and human freedom which under Article 8 the notion of personal autonomy is an important principle and it includes the right of individuals to establish their identity.

The Court went on to say "In the twenty first century the right of transsexuals to personal development and to physical and moral security in the full sense enjoyed by others in society cannot be regarded as a matter of controversy requiring the lapse of time to cast clearer light on the issues involved. In short, the unsatisfactory situation in which post-operative transsexuals live in an intermediate zone as not quite one gender or the other is no longer sustainable"<sup>41</sup>. As such the Court was not convinced that there was concrete or substantial hardship or detriment to the public interest demonstrated for the changes that may be required to the internal system to facilitate the changes required for those with the status of transsexuals and that "society may reasonably be expected to tolerate a certain inconvenience to enable individuals to live in dignity and worth in accordance with the sexual identity chosen by them at great personal cost"<sup>42</sup>.

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40 Application No. 28957/95, 11 July 2002, Grand Chamber

41 Ibid, para 90

42 Ibid, para 91

The Court recalled that in previous cases it had emphasised the importance of keeping the need for appropriate legal measures under review in light of developments. This case showed that this had not been done and there was no plan in place that the situation was going to change and on this basis there had been a failure to respect the applicant's private life. Similarly, the Court was not persuaded that the right to marry was "must refer to a determination of gender by purely biological criteria". Whilst it was for the state to determine the formalities of transsexual marriages it found "no justification for barring the transsexual from enjoying the right to marry under any circumstances"<sup>43</sup>

Further progress with regard to transgender rights is also noted in cases that follow focusing on different aspects. In the case of *Van Kuck v Germany*,<sup>44</sup> the applicant had initiated legal proceedings to recover the costs for gender reassignment surgery from a private health insurance company. In so doing the applicant claimed there was unfairness in the proceedings and that the court had violated her right to a fair hearing and her right to a private and family life. The Court found that the applicant indeed did not have a fair hearing and that her right to private life had been breached as it was disproportionate to require the applicant to prove the medical necessity of the treatment.

With regard to pension rights, despite the *Christine Goodwin* decision which is a turning point in this area, the lack of recognition of a claim following a change in gender identity can also result in a violation as in the case of *Grant v United Kingdom*.<sup>45</sup>

Failing to introduce legislation or lengthy delays can also be problematic and the Court dealt with this issue in the case of *L v Lithuania*,<sup>46</sup> where delays of over four years by Lithuania to introduce legislation to regulate full gender-reassignment surgery resulted in the right to a private life being breached. Similarly, arbitrary restrictions without due regard to the circumstances of an individual case can also result in a violation of the right to private life as in the case of *Schlumpf v Switzerland*.<sup>47</sup> In that case the applicant's health insurers refused to pay for a gender reassignment surgery as the applicant had not wanted to wait for the minimum 2 years before the operation, although it had failed to consider the circumstances primarily the age of the applicant (67), whose decision would be affected by such a delay and would impair her freedom to determine her gender identity.

## Focus Group

A structured discussion has been conducted with three persons, members of transgender community on the issues that affect them the most in every aspect of their life, either personal or professional. Being aware that this number is very small, it is very difficult to conclude that they represent the trans-gender community. Nevertheless we believe that in the focus group discussion members of this group have been able to share information about the daily difficulties they are confronted with.

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<sup>43</sup> Ibid, para 103

<sup>44</sup> Application No. 35968/97, 12 September 2003

<sup>45</sup> Application No. 32580/03, 23 May 2006

<sup>46</sup> Application No. 27527/03, 11 September 2007

<sup>47</sup> Application No. 29002/06, 09 January 2009

### ***Information about focus group participants***

While two of the participants are assigned male at birth, one of them is assigned female at birth; two of them are in their twenties, one of them has just turned 18. All three of them belong to the same ethnic background (Kosovar-Albanian) and all of them identify themselves as bisexual when asked about their sexual orientation. When asked which gender they prefer, all three of them stated that they prefer male.

Despite the fact that the participants say that they live their lives as transgender they stated that they are hesitant to identify themselves as such in society or in their families. The reason for that, according to them, is to avoid potential problems because this category of persons is not welcome, especially in family circles. As an exception they mentioned close friends, who are in certain instances more supportive and accepting than family members.

### **Knowledge of trans issues**

Being members of this particular community, focus group participants showed a relatively good understanding when they were asked to make a distinction between linguistic terms: transgender, transvestite and transsexual. While the term "transvestite", according to their answers, mainly relates to outside appearance or outfits/clothing, their answers differed when they tried to explain their understanding of the two other terms. It was evident that they understand substantively the difference, they had difficulties in formulating it. Their answers about difference between the terms gender and sex were better structured and it reflected their correct understanding of the issue.

### **Individual obstacles**

All three respondents cited family and wider society as a key obstacle. This is on the basis that neither their families nor society make an effort to understand but rather they are preoccupied with judging and preventing an individual's journey to discover who they are. The impact of the family is particularly significant due to the nature of the society where the family is one of the main pillars, young people especially continue to rely on their family and there continuous to be inter-generational support. Not conforming to a family's identity as someone transgender would not, this can cause all sort of difficulties.

One of the respondents recalled a time when he dressed as a bride and applied make up only to be discovered by his mother. He said this was not a pleasant experience as he was punished, which he still remembers. Playing dress up and using this as an opportunity to express gender identity was identified as a method used by the other respondents during their childhoods. It was through this that respondents were also subject to the views of others including family, which tended to be against such an expression of gender identity.

Another respondent recalled that for a number of years whilst in the gymnasium some of his professors were not aware of his gender identity. Whereas at university gradually said the respondent, he kept his gender identity hidden until he decided to come out at which point it became a full on issue to deal with. At work one of the respondents faced being teased and jokes being told which indirectly contained negative connotations. As a result of this experience he had a discussion with his manager where he raised his grievance for which he did not receive redress. More recently one of the respondents highlighted that he was even attacked for his gender identity in another town.

## ***Support and impact***

Despite the family being one of the most important institutions in Kosovo, the reality for transgender people remains being excluded on a permanent basis. This alone causes a lot of stress and generally has a negative impact on the individuals concerned. At the same time most of these people in this situation will look to friends for support or organisations. With one of the attacks suffered by a respondent highlighted above, he explains that he has received support from one of the LGBT organisations so that he can deal with what happened.

However, despite the limited support that exists, it may not be enough to prevent an individual from self-harming or even considering suicide. During the focus group this was an issue that was raised with a respondent explaining that he does have suicidal thoughts and has attempted suicide. He explained the attempted suicide came about after suffering depression for a number of months, after 'coming out' and being rejected. All of this got too much that he thought he could not "deal with anymore" and decided to take action. At that point his family became involved and luckily he survived, however, after the event his family went back to treating him as they had previously and not willing to accept his gender identity.

To deal with some of these issues, the respondent also visited a psychologist. During one of the sessions to raise the issue of gender identity, he made reference to a friend who is gay and before he was able to finish the sentence he was told to not elaborate on issues that he has not tried himself. For this individual talking about the experiences of his friend to a psychologist was a technique used to test the response of the professional and potentially helping him open up about what this individual was facing. However, response that the individual in question should not discuss hypotheticals and be concrete as to what has occurred or the individual is feeling is somewhat insensitive. This is because even a psychologist when working with this group it is arguable needs to work in building trust in order to provide the best service possible. Evidently, this sort of approach did not allow for any such trust to be built as the individual in question had to withdraw from seeking treatment.

## **Gender reassignment surgery**

Respondents were asked whether it was possible to change one's sex and all agreed that they did not think at present this was a possibility. One of the respondents pointed out that treatment in Kosovo is not available, as is the case in Albanian. Belgrade was cited as being the exception where such treatment is available. Apart from the lack of medical treatment, another respondent pointed out that "it is the general conditions, your circle, external support outside of the family and society". Essentially what the respondents were referring to was the lack of treatment being available focusing on surgical treatment but including hormone therapy.

Similarly, how such treatment or surgery is likely to be perceived by society, family and friends and the support or lack thereof missing from relevant institutions. Without explicitly stating it the respondents were referring to conditions which may include financial issues, the lack of support and acceptance from family and friends, as well as the lack of support from different institutions such as those in healthcare. In their view the lack of conditions would make surgery difficult even if this procedure was available.

## Looking forward

In looking to the future respondents were asked what could be done to improve the situation in the future. One of the key recommendations was increasing awareness and acceptance amongst the general population. Additionally, awareness raising among health professionals and in particular psychologists was seen as necessary so that they don't view an individual's wish to express their gender identity or gender reassignment surgery as a mental health issue and can provide support as may be necessary. Awareness raising is also important among families whose role is invaluable if they are to accept the right of the individual to express themselves and find what they feel comfortable with in terms of gender identity.

## Social Protection

Structured interviews with social workers, as the professionals that are most likely to be called upon to provide support to transgender persons were conducted. The results are considered using the following three areas: information about the social worker, their knowledge of trans issues and their experience of supporting transgender persons.

### Information about interviewees

Table 1

| Age | Sex    | Ethnicity          | Institution                              |
|-----|--------|--------------------|--|
| 41  | Female | Kosovar – Albanian | Centre for Social Work                   |
| 61  | Male   | Kosovar – Albanian | Directorate of Health and Social Welfare |
| 57  | Male   | Kosovar – Albanian | Centre for Social Work                   |
| 28  | Female | Kosovar – Albanian | Centre for Social Work                   |
| 58  | Male   | Kosovar – Albanian | Centre for Social Work                   |
| 47  | Female | Kosovar – Albanian | Centre for Social Work                   |
| 50  | Female | Kosovar – Albanian | Centre for Social Work                   |
| 58  | Male   | Kosovar – Albanian | Centre for Social Work                   |
| 58  | Male   | Kosovar – Albanian | Centre for Social Work                   |
| 64  | Male   | Kosovar – Albanian | Centre for Social Work                   |
| 27  | Male   | Kosovar – Albanian | Centre for Social Work                   |
| 56  | Male   | Kosovar – Albanian | Centre for Social Work                   |
| 36  | Female | Kosovar – Albanian | Centre for Social Work                   |
| 27  | Female | Kosovar – Albanian | Centre for Social Work                   |
| 59  | Male   | Kosovar – Albanian | Centre for Social Work                   |
| 52  | Female | Kosovar – Albanian | Centre for Social Work                   |
| 50  | Female | Kosovar – Albanian | Centre for Social Work                   |

This information was recorded as part of the research to build a picture of those who were responding. Whilst the research covered the main regions of Kosovo as stated in the methodology, the most significant component of this information is age, which shows that social workers tend to be older. Bearing in mind the conditions in Kosovo this can have a negative impact on the basis

that they are unlikely to have an up to date understanding of transgender issues, keep up to date with the latest developments in this field and are less likely to be open minded. At the same time as all respondents are Kosovar – Albanian, this is also a limiting factor as it would have been important to have the views of members of other communities. However, selection was done on the basis of regions only and interviews took place with those who are most likely to be in a position to either have supported or support a transgender person.

### Knowledge of Trans Issues

Terminology can be important when grappling with an issue. One of the first questions asked in structured interviews was to determine what understanding the interviewees had in relation to the following terms; transgender, transvestite and transsexual and their responses are detailed below.

Table 2

| Interview | Transgender  | Transvestite                            | Transsexual  |
|-----------|--|---|--|
| 12        | "changing gender"  | "I don't understand"                    | "changing of organs"   |
| 11        | "persons who do not belong to one gender male or female"   | .....                                   | "those persons who have tendencies for same sex marriage"  |
| 10        | "transforming from one gender to another"  | "I don't understand this term"          | "there are similarities – transitioning from one gender to another"  |
| 14        | "when a person for specified reasons as an adult decides to change his gender from male to female or vice versa. This arises from an inner desire to be of the opposite gender , likes something more of the other gender, or because doesn't feel good being male or female, or in the past had a trauma which led to changing gender". | "wanting to be a different gender"      | "transsexual is when you want to change...when you want to transfer gender....I think this refers to the same topic..changing your gender through medication, medicine". |
| 6         | "changing gender"  | "I don't know"                          | "changing sex"   |
| 5         | "affinity to both genders"   | "I've not heard"                        | "affinity to both sexes"   |
| 4         | "homosexual persons – same sex marriage: is that what it refers to?"   | "It's not clear to me"                  | "of the same sex gender – it's not clear to me"  |
| 16        | "changing gender"  | "changing clothing according to gender" | "changing sex"   |

|    |   |  |   |
|----|---|--|---|
| 15 | "with these terms we are informed through the media, we have little information. There are people whose gender or sex is not determined"  | "I have not heard this"                        | "again where sex has not been determined"   |
| 18 | "...a problem with sex. It means females have relationships with females only and the opposite sex men with men"  | "I don't know"                                 | "can have sexual relations with the same or the opposite sex"   |
| 13 | "I understand it when gender is transformed....when one female marries another female.....maybe I am wrong but that's how I understand it"  | "it has the same meaning.... trans..."         | "it is the same as he first"  |
| 9  | "I don't have any knowledge but I have heard of heterosexuals and homosexuals meaning human inclinations for sexual relations with the opposite sex or the same sex...." However following discussion the interviewee has heard about males who feel female or females who feel male but does not know the terminology. |  |   |
| 8  | "maybe bisexual preferences"  | "I don't know"                                 | "maybe bisexual"  |
| 7  | "I simply understand it to mean in one form to change gender, it is about people who simply do not feel good with what nature has given them physically but want to make changes"   | "...to change gender"                          | "the three are similar... transsexual perhaps is the same as the second, again wants to change gender, something like that" |
| 3  | "those who change their gender"   | "I have no idea"                               | "I don't know, the three sound similar, to change gender"   |
| 2  | "...an individual who is not or no longer wants to have the gender he has and wants to change his gender"   | "perhaps because he or she has changed gender" | "I cannot give any explanation because I am not an expert in these categories that are mentioned"                           |
| 1  | "...persons...who are homosexual"   | "I accept that I don't know"                   | "it is linked to the first... homosexuals"  |

Whilst this report and research uses transgender as the umbrella term, these three terms were used to allow interviewees greater scope to respond. The results show that on the whole social workers have had some exposure to some of the terms and have some knowledge exclusively that relates to transgender persons or the LGBT community as a whole. Interestingly, marriage is also referenced in this regard and sexual relations is referred to in more than one occasion. Approximately only half of those who responded have some understanding of what it means to be transgender, although that understanding is particularly limited. The term transvestite seemed to cause a lot of confusion with only 1 responded noting that it refers to how an individual expresses his or her gender. Whilst the use of these terms was to ensure that as many respondents could engage with the research as they may have heard about different terms, it seems the use of transvestite and transsexual could have been confusing. The responses to this particular question should also be interpreted in light of the demographic with the majority of social workers being over 40 with a number being in their 50s and 60s. Their age is relevant as exposure to these terms may be limited.

## Terminology: sex or gender

Another important question that was asked based on terminology related to sex and gender and what the differences between the two are.

Table 3

| Interview | Sex   | Gender   |
|-----------|---|--|
| 12        | "the same as gender"  | "male or female"   |
| 11        | "the same" as gender  | "male or female"   |
| 10        | "sex or gender...male or female...sex and gender are the same"  |  |
| 14        | "...biological term, a male has different organs"   | "male or female – societal title"  |
| 6         | "the same as gender"  | "male or female"   |
| 4         | "intimate relations"  | "...male...female"   |
| 16        | "sexual relations between those of the opposite sex"  | "male or female"   |
| 15        | "this also relates to which gender you belong"  | "...determines the personality of an individual – male or female"                                  |
| 18        | "...intimate relations of the opposite sex or the same sex..."  | "male or female"   |
| 13        | Sexual relations between those of the opposite sex  | "male or female"   |
| 9         | "...sexual relations"   | "...male or female"  |
| 8         | "it is the same..."   | "male or female"   |
| 7         | "it seems to me to be the same as gender, that's how I understand it"   | "that which you are born with for example I am a female and that's how I identify, that is gender" |
| 3         | "in English when we are referring to sex it is the same as gender"  | "male or female"   |
| 2         | "...perhaps it can change whenever, depends on the orientation the individual has. An individual is born with one gender but what sex he desires is his decision, depends on each individual and no one else" | "...gender is that which you were born with"   |
| 1         | "...depends on the desire of each person to choose, especially after the age of 18. I understand it that he has the right to choose who to have sex with, in what way etc."                                   | "....determining what gender you are... male or female"  |

All respondents had an understanding of at least one of the terms. Only a minority made reference to the fact that sex does refer to the biological characteristic that is determined at



birth, although all identified this as male or female. An understanding of gender as an internal feeling of individual was not referred to. The lack of exposure to transgender rights could be one of the main reasons as to why interviewees were not familiar with these concepts or what the questions were seeking to capture. Some of the respondents made reference to sexual relations or preferences. This is in part due to a linguistic issue as only the word gender tends to be used relating to the characteristic of male or female in Albanian, whereas sex is more commonly used to refer to sexual preferences.

### ***Gender reassignment surgery***

As a transgender person may take the decision to transition through undergoing surgery, the question that was asked was *"should individuals wanting to change their sex by undergoing surgery be able to do so?"*

For some this was very much a matter of personal choice and if that's what an individual wanted, it should be permitted<sup>48</sup> or "their will and desire" should be respected.<sup>49</sup> The matter of age seemed to also be important to more than one interviewee. One social worker said "those in adulthood decide for themselves – we can't mediate".<sup>50</sup> While another stated "it depends on age and whether he is capable of understanding the consequences of his action....for those who are adults, without hesitation the answer is positive".<sup>51</sup> Another agreed that "such a change, operation" should be available to those over 18 years old as "each person has the right to decide for himself in every aspect of his life....and this right i hope exists in other places as well as ours".<sup>52</sup>

One interviewee referenced a human rights based approach to this question by stating "as a social worker...taking into account human rights and that an individual should be able think and act according to his will...if he thinks...if it is for his welfare, I agree that he should be able to do so".<sup>53</sup> Similarly, the response of another social worker was "yes, why not. This is guaranteed with all conventions, conventions for the protection of human rights".<sup>54</sup> A third interviewee agreed that the answer should be yes especially if the individual "has a desire and is suffering...it is a human right. Perhaps it will have an impact on their appearance and their psychological being....I find this reasonable".<sup>55</sup>

Others saw the rights of the individual but also indicated the personal conflict that may arise when dealing with this question. For instance one social worker stated "I think for us this is not a practice...at least in our experience and at the moment it is not very convincing, very logical or normal as it is an organic matter and can have consequences. In my opinion it is wrong. I do not agree with such interference....in health terms, religious terms. However, this does not depend on us; we are under an obligation to provide social services permitted by law, ethics and our profession...personally I think in our surroundings and the way we live it is not normal".<sup>56</sup>

Another viewpoint which was not focused fully on the individual was that "these persons are considered as creatures. If there is a possibility medically to be cured, it would good to

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48 Interview 12

49 Interview 11

50 Interview 6

51 Interview 5

52 Interview 18

53 Interview 14

54 Interview 2

55 Interview 13

56 Interview 16

contact health institutions to enable treatment. But if they want to change their gender, it is their perception; we can't determine what is permitted and what isn't. It should be their will.<sup>57</sup> Similarly, another interviewee responded yes on the basis that "these people they do what they like," likened this sort of procedure to plastic surgery and "since we are permitting homosexuals to marry, now it is everyone's right".<sup>58</sup> For another interviewee surgery should not be an option "if God decided you are female or male, you can't go against God's wish".<sup>59</sup>

The response of social workers to this question is rather varied from those who would approach this issue from a human rights approach all the way to those social workers who consider transgender individuals as "creatures". The latter is particularly concerning because such a social worker is not only not likely to provide support but with views like that if portrayed to a vulnerable victim can result in tragic consequences. Other important considerations include age where social workers consider that this should only be an option for those individuals who are adults. Another important consideration for some social workers is religion, which is an obstacle to understanding the matter of gender reassignment. Whilst it is important that these different issues have been expressed during the course of interviews, they portray a complex picture regarding views of social workers and at this stage it would be difficult to say whether an individual could rely on such social workers for protection. Another important consideration may be the professional background of such social workers, which was not considered here although this has the potential to have an impact on their view and how they may treat transgender person. In any event working with social workers so that the human rights based approach is utilised across the board with the latest information would be necessary in the future. This should include working with other institutions so that some sort of mapping can take place in terms of services available, as well as developing services that can be offered to support transgender persons.

## **Role of social workers**

Social workers can have an important role when a transgender individual is looking for support at any point in their journey to discover their gender identity. It is for this reason that social workers were asked "Do social protection professionals like you have a role to play in supporting transgender people? If yes, how?"

One of the responses was that social workers are "at the service of all citizens regardless of gender, religion, race or ethnicity"<sup>60</sup> indicating that they would rise to the challenge. For another social worker the response "yes, of course. Even though in 25 years of service I have not had a case, if I had an opportunity to provide support, I will give my maximum".<sup>61</sup> Similarly, another social worker points out that "our role is to support all those who are in need. As to how, I do have a question here because this remains a taboo subject in our society....but yes, whoever requests a service we are for providing assistance according to our capabilities and capacities".<sup>62</sup> Another social worker stated if a party comes to us "we must provide assistance like to anyone else. No matter what requests are made, we have to offer support".<sup>63</sup>

The current conditions and pressures that social workers face have an impact on the services that

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57 Interview 15

58 Interview 3

59 Interview 1

60 Interview 18

61 Interview 13

62 Interview 9

63 Interview 4

they are able to offer. One social worker pointed out “taking into considerations the circumstances we live in and the approach by older professionals towards this community, I believe the services that we offer are minimal but within that which we can provide. There aren’t any derogations or prejudice but this is how we are able to operate at present”.<sup>64</sup>

Many of the social workers interviewed also noted that the demand to support transgender persons has been low to non-existent. One social worker noted “we have not had a case that has come forward....we of course accept all parties that require assistance.”<sup>65</sup>

However, this role is not accepted by all across the board. One social worker commented “no, until now we have not had any role for their protection”.<sup>66</sup> Another social worker points out that they do not have a role as the “Centre for Social Work does not have an action plan nor have we planned to offer protection”.<sup>67</sup> This was shared by other social workers.<sup>68</sup>

Social workers are important professionals in providing support to transgender persons whether young people or adults. The fact that some social workers don’t consider this to be within their remit of their work either on the basis that they have not encountered such cases or that this group is outside of their target group it is concerning. Whilst it should be recognised that social workers constantly have to deal with large caseloads and are required to provide services to a range of beneficiaries from children to the elderly groups such as transgender persons should not be excluded. As is the case with other beneficiaries, Centre’s for Social Work should regularly draft and review action plans where beneficiaries are identified and services are provided. This will depend on need on each municipality, although transgender persons should be within their radar. Alongside such planning, the Centre for Social Work should also have the necessary professional expertise in order for it to provide such services and have the necessary budgetary means to deliver such services such as counselling or other support.

## Legal protections

The legal framework can be an important tool for the transgender community. An awareness of the same by duty bearers is important not only in ensuring that the right services are provided but also in supporting members of the community as they enforce their rights. On this basis knowledge of the legal framework was also considered an important component and researched through interviews with social workers through a number of questions.

One social worker had the view that the rights of LGBT are provided for even in Kosovo but did not have specific details. With regard to specific rights conflicting views were portrayed for example this social worker was against individuals adjusting their sex in accordance with their gender identity but thought it was possible to change one’s name legally and was in favour of it if this is what an individual wanted. However, it is not clear whether this was expressed in relation to a transgender individual. Further the social worker stated that it is not the case that transgender persons are vulnerable especially since the law enables them to organise, how much they will be accepted by society it is another matter.<sup>69</sup> As to vulnerability, another social worker stated that “it is a vulnerable group...it is a phenomenon that has been discussed of late. The number

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64 Interview 2

65 Interview 15

66 Interview 3

67 Interview 1

68 Interview 12

69 Interview 15

of persons declared is small. They have declared some problems....it is my impression that it is a more vulnerable group compared to others".<sup>70</sup>

Within the social protection sphere another social worker pointed out that the legal framework is well established. However, it was also noted that with someone's transitioning the legal framework or professional standard may not be as well established and are likely to bring negative consequences for a person's circle and family without any positives. Changing one's name is a possibility, although this is unlikely to be successful where one's gender has not been changed.<sup>71</sup>

One social worker with regard to the legal framework stated that "I've heard in the media that a marriage law for the same sex is to be approved. Since Kosovar society is a traditional one, it will find it hard to accept this but it must accept it". As to someone's transitioning, the social worker said "I know that you can't change one's sex since the operation is not possible". Whereas changing one's name, is an action that can be achieved, although when this has taken place it has not been in relation to a transgender person.<sup>72</sup>

Whilst the legal framework has been viewed as adequate by a social worker, the support that a person wanting to adjust their sex finds is key. In Kosovar society though this is unlikely to happen as there is prejudice from society, people in general and even family. There are also difficulties in employment, education, every aspect of life. As such the legal framework may be adequate but its implementation is not especially when society's views need changing. This group is also vulnerable as often people will believe that these individuals have mental health problems. This is wrong but things are changing and the younger generations represent different thinking. In the meantime there are barriers which jointly institutions, organisations and the government can be overcome.<sup>73</sup>

Another social worker noted that for a "64 year old and the Kosovar – Albanian mentality the matter of transgender rights is abnormal and we have much bigger problems than to deal with this sort of thing".<sup>74</sup> However, another social worker is of the view that this groups remains vulnerable. There is a mentality issue and the fact that the transition has happened quite quickly but it is not the case that this category has not existed for a long time. At present they remain vulnerable but with more people visiting other places things over time are likely to change.<sup>75</sup>

The matter of same sex marriage seemed to be high on the agenda with another social worker stating that this may be part of the legal framework. However, as to someone's transitioning the view seemed to be that this may not be possible in Kosovo due to expense. However, changing one's name is possible. .<sup>76</sup>

As has been noted the legal framework can be an important enabler in advancing rights of transgender persons. Social workers as one of the duty bearers have an important role in providing services in compliance with such a framework. Responses seem to indicate that there is an awareness of a legal framework existing but limited information is given in relation to this. The prohibition of discrimination is one of the key legal principles, although this is not mentioned. On

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70 Interview 5

71 Interview 16

72 Interview 4

73 Interview 14

74 Interview 1

75 Interview 7

76 Interview 8

the other hand marriage is something that is mentioned, although this is not altogether relevant. Further, the fact that some social workers do not view transgender persons as vulnerable or potentially vulnerable can also be problematic especially bearing in mind the mentality in Kosovo and the lack of understanding among professionals, families and society at large.

### **Experience of supporting transgender persons**

Another part of the interview focused on documenting experiences of providing support to transgender persons as well as obtaining an insight from professionals as to how comfortable they are in working on such cases.

Cases relating to support provided to transgender persons are scarce. This is on the bases that very few social workers interviewed referred to cases they have dealt with. The reasons for this are not entirely clear. The lack of awareness and acceptance among society as whole can impact on transgender persons seeking support. At the same time there may be hesitation by transgender persons to seek such support on the basis that they may be judges or that confidentiality may not be maintained.

One case that was mentioned by a social worker referred to dealing with a minor who had been raped by an adult. Whilst support was provided as neither party identified as transgender, this is not particularly relevant for this report. However, looking to the future the social worker mentioned that the Centre for Social Work is in a better position to provide services having employed a psychologist as a skills gap existed previously. Despite lacking experience the social worker stated that "I would be in a position to assist a transgender person who needed help and would feel completely comfortable with this".<sup>77</sup>

When asked what services could be offered to a transgender person who requested assistance, one social worker noted the need for a range of measures that could be taken to raise awareness. If the case related to a child, education would be a priority. However, it would also be necessary to provide information relating to that person's right and that others do not have the right to judge.<sup>78</sup>

There seemed to be a general acceptance among social workers that they would not refuse providing assistance to an individual. This was stated on the basis that such an individual is the same like any other, this would be their preference and "I would absolutely not judge. Just as I am assisting a young offender it is the same. Or when I am assisting children from broken families, for me it is the same".<sup>79</sup>

Whilst the answer remains that social workers have not had any requests to provide a transgender person with support, in the event that this request was made it was highlighted that the Centre for Social Work could assist through housing, social assistance, moral support etc.<sup>80</sup> Further when asked how do they keep informed relating to transgender persons, one social worker indicated that this done through the internet, although training would be welcomed.<sup>81</sup>

One of the limited cases cited where a social worker explains that an individual was supported relates to a minor. In that case the child had been missing for 48 hours and once found when

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77 Interview 1  
78 Interview 7  
79 Interview 8  
80 Interview 13  
81 Ibid

the social worker interviewed her she stated that he felt more male than female. She also had changed her appearance somewhat within that short space of time by colouring her hair and getting piercings. Following this incident, the social worker worked with the family to ensure that the child continued with her schooling. The social worker proposed medical assistance so that her sex or gender could be determined. Despite working with the child for up to 2 and a half years when the child reached majority, the child decided that treatment was not necessary as she was not longer considering to change her gender.<sup>82</sup>

In another case a social worker explained that a 13 year old boy was assisted who wore girl's clothing, felt female, wanted to gender reassign to female and was looking for options to have the necessary operation. It was stated that one of the reasons was also getting pains in his stomach on a monthly basis which resembled period pains. However, the social worker found that the boy faced a difficult environment – he is not understood, his will and desires are not respected, in particular his father does not understand him at all. The social worker conducted home visits and found that his mother supports and encourages him a lot, although there is fear if his father discovers his true condition. The social worker noted that an embassy was contacted in relation to any support for surgery but this was dismissed.<sup>83</sup>

In exploring the question of how comfortable a social worker would be to assist a transgender person, one social worker commented "this is both humane and a legal obligation, every person who qualifies for social protection ...we are obliged by law to provide support. Otherwise privately, that which is humane, religious, ethical, it is good to help everyone without violating anyone's rights".<sup>84</sup> This is interesting as it provides an insight into a conflict that a social worker may have within themselves about this issue. At the same time perhaps having been questioned on this topic previously, they have become accustomed to responding in a way which is not controversial even if when the response being provided is read between the lines is not a harmonious one. Another social worker stated "it is not easy to assist such a case...but we are under an obligation to.....this means we cannot escape advising, supporting, providing suggestions that are needed in light of what we know.....it will be difficult...but refusing to deal with a case is not an option".<sup>85</sup>

The research indicates that social workers have had limited exposure in providing support. Some of the cases that are referred to either do not relate to transgender issues or the impact of the support provided is not entirely clear. At the same time this does not mean that there aren't individuals who require support and on this basis Centre's for Social Work should consider this group as one of the beneficiaries and ensure that is social workers are fully prepared. None of the cases refer to working with any other professionals, which may be important especially since there continues to be lack of understanding of transgender persons.

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82 Interview 18

83 Interview 4

84 Interview 15

85 Interview 16

## Dealing with transgender issues

Table 4

| Interviewee      | If you were asked to provide support to a transgender person (whether an adult or minor) how comfortable would you be between 1 (not comfortable) and 10 (completely comfortable)? |   |   |   |   |   |   |   |   |    |
|------------------|--|---|---|---|---|---|---|---|---|----|
|                  | 1  | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 1                |  |   |   |   |   |   |   |   |   | X  |
| 2                |  |   |   |   |   |   |   | X |   |    |
| 3                |  |   |   |   |   |   |   |   | X |    |
| 7                |  |   |   |   |   |   |   |   |   | X  |
| 8                |  |   |   |   |   |   |   |   |   | X  |
| 9                |  |   |   |   | X |   |   |   |   |    |
| 13 <sup>86</sup> |  |   |   | X | X |   |   |   |   |    |
| 18               |  |   |   |   |   |   | X | X |   |    |
| 15               |  |   |   | X |   |   |   |   |   |    |
| 5                |  |   |   |   |   |   |   | X |   |    |
| 6                |  |   |   |   |   | X |   |   |   |    |
| 14               |  |   |   |   |   |   |   |   |   | X  |
| 10               |  |   |   |   |   |   | X |   |   |    |
| 11               |  |   |   | X | X |   |   |   |   |    |
| 12               |  |   |   |   |   |   |   |   |   | X  |

The willingness of social workers as shown by the table to engage is encouraging. Especially since many of them cited their sense of duty when called upon to assist. However, another reason as to how high scores are may reflect the fact that social workers may be focusing much more on their professional standards alone without thinking about their feelings, which is not necessarily all that the question is asking.

Interviewees noted that there are no policy documents at local level or working protocol and training has not been provided in dealing with this group and some social workers suggested that having these in place may help in ensuring that transgender persons are supported properly. Further focusing training on psychological aspects may help with promoting understanding, as well as ensuring the right support is provided.

### Access to Healthcare

Interviews with health care professionals were conducted using structured questionnaires. The results are presented focusing on similar themes of: information about interviewees; knowledge of trans issues and experience in providing treatment to transgender persons.

<sup>86</sup> Based on lack of experience and skills to work with this group

## Information about the interviewees

Table 5

| Age | Sex    | Ethnicity          | Institution   |
|-----|--------|--------------------|---|
| 34  | Female | Kosovar – Albanian | University Clinical Centre of Kosovo - Neurology                        |
| 35  | Male   | Kosovar – Albanian | University Clinical Centre of Kosovo - Surgery                          |
| 47  | Male   | Kosovar – Albanian | Regional Hospital in Prizren – Endocrinology                            |
| 50  | Male   | Kosovar – Albanian | Regional Hospital in Prizren – Gynaecology                              |
| 50  | Male   | Kosovar – Albanian | Regional Hospital in Gjakova – Psychiatry                               |
| 54  | Male   | Kosovar – Albanian | Regional Hospital in Gjakova – Psychiatry                               |
| 44  | Female | Kosovar – Albanian | Regional Hospital in Gjakova – Gynaecology                              |
| 58  | Male   | Kosovar – Albanian | Regional Hospital in Gjakova – Gynaecology                              |
| 62  | Female | Kosovar – Albanian | University Clinical Centre of Kosovo - Endocrinology                    |
| 34  | Female | Kosovar – Albanian | University Clinical Centre of Kosovo - Institute of Forensic Psychology |
| 47  | Male   | Kosovar – Albanian | University Clinical Centre of Kosovo - Urology                          |
| 50  | Male   | Kosovar – Albanian | University Clinical Centre of Kosovo - Gynaecology                      |
| 56  | Female | Kosovar – Albanian | Community Mental Health Centre – Prizren (Psychiatrist)                 |
| 56  | Male   | Kosovar – Albanian | General Hospital – Prizren (Urologist)                                  |
| 62  | Male   | Kosovar – Albanian | Prizren Hospital – Department of Gynaecology (Gynaecologist)            |
| 39  | Male   | Kosovar – Albanian | University Clinical Centre of Kosovo (Endocrinologist)                  |
| 46  | Female | Kosovar – Albanian | University Clinical Centre of Kosovo (Endocrinologist)                  |
| 37  | Male   | Kosovar – Albanian | University Clinical Centre of Kosovo - Psychiatry (Psychologist)        |
| 44  | Female | Kosovar – Albanian | Psychiatry Clinic (Psychologist)  |
| 50  | Male   | Kosovar – Albanian | General Hospital – Ferizaj (Gynaecologist)                              |
| 44  | Female | Kosovar – Albanian | General Hospital – Ferizaj (Endocrinologist)                            |
| 40  | Male   | Kosovar – Albanian | Regional Hospital in Ferizaj (Urologist)                                |

Similar to social workers, the age of health professionals dominates in the category 40+. This is relevant and significant because they are likely to have completed their education much earlier on and are unlikely to have up to date information with developments that have taken place in relation to transgender persons. As has been noted there have been scientific advancements in relation to the descriptions regarding gender reassignment surgery and this is especially important for a society that has had limited exposure and does not currently have conditions of acceptance.



## Understanding of Transgender Issues

Table 6

| Interview | Transgender   | Transvestite  | Transexual  |
|-----------|---|---|---|
| 01        | "I don't know"  | "I don't know"  | "Change of gender"  |
| 02        | "Transportation of gender or transfer of gender from an organism to another organism"                   | "Lust disorder or having an act in an inadequate manner; sex toys – plastic; But it is OK, it's their right"                              | "Combination of a) and b) "   |
| 03        | "I don't know"  | "Persons of a certain gender who wear clothes of the opposite gender"   | "I don't know"  |
| 04        | "Relationship with both genders"  | "I don't know"  | "I don't know"  |
| 05        | "... the individual who wants to change his gender, either from male to female or the other way around" | "It's a psychopathology, a phenomenon where males imitate females, e.g. taking females' clothes, such as panties, bras or something else" | "...when a male individual likes female gender, but also dedicates a special care to clothes or the way of behaviour as the opposite sex" |
| 06        | "Change of gender through surgical and hormonal interventions"  | "when a person, even though physically belongs to a gender; his/her behaviour, presentation, clothes belong to the opposite gender"       | "Physically, psychologically and in the hormonal aspect, belongs to both genders"   |
| 07        | "When someone who is a male or female, and requests a transfer to the other gender"                     | "I don't know"  | "I don't know"  |
| 08        | "Change of sex"   | "I don't know"  | "Liking the same sex"   |
| 09        | "A person who holds psychologically two genders, even though physically holds only one of them"         | "Outside features, clothing outfit"   | "I don't know"  |

|     |  |  |  |
|-----|--|--|--|
| 10  | "Their gender is the opposite of their sex"  | "Persons who wear clothes of the opposite gender"  | "Change of sex through surgical interventions"                                   |
| 11. | "I think that transgender, transvestite and trans-sexual is the same thing. And it means lack of clear definition of his/her gender" |  |  |
| 12  | "I don't know"   | "I don't know"   | "I don't know"   |
| 17  | "Trans, between two genders"   | "It used to be a sexual disorder. Now it is not considered to be a disorder. It is a habit, a lifestyle"       | "As I said before. Between two genders"  |
| 18  | "A person who possesses elements of both genders"  | "I don't know this term"   | "I think it is the same, transgender, trans-sexual. I don't know the difference" |
| 19  | "Mental deviation"   | "I have not heard of it"   | "These fags"   |
| 16  | "Transgender means a human who does not belong to either female gender or male gender"   | "I don't have any information"   | "I think it's the same as the first one"   |
| 20  | "Neither female, nor male"   | "With a male voice, but female characteristics."   | "Sex change"   |
| 21  | "To change the gender"   | "I don't know"   | "This one as well, to change the gender"   |
| 22  | "Persons who want to change the gender"  | "Persons who have undergone the intervention"  | "More or less, they are the same"  |
| 23  | "Persons who might have a liking for other gender or..."   | "Persons who like to wear clothes of the other gender, the opposite"   | "Who like the same gender"   |
| 24  | "...it is when a female sex transforms into a male sex, or a male sex into a female, through surgical interventions"                 | "I have heard of it, but is it not the same? Transvestite is when you are a female but you behave like a male" | "Now I don't know how to formulate it. You know?"                                |
| 25  | "Bisexual"   | "Wish a relationship disorder, of desire"  | "I don't understand this one"  |

The results of this part of the research shows a variety of answers from health professionals when it comes to distinguishing these terms. The most common answer is “I don’t know”, which has been used 14 times out of 25 answers. Also in most of the cases, the interviewees despite the lack of knowledge or understanding of the difference in terminology, they attempt to be respectful towards members of transgender community. However, it is worrying that in some instances, some of the interviewees show their discontent, which is expressed in its most extreme by an interviewee who labelled members of transgender community using derogatory terms such as “these fags”.

Another issue to be addressed is that some interviewees, despite being one of one of the addresses where members of transgender community should ideally ask for help or assistance, they still see transgender persons as individuals with mental disorders.

### Terminology: sex or gender

Another important question asked based on terminology related to sex and gender and what the differences between the two are.

Table 7

| Interview | Gender   | Sex  |
|-----------|--|--|
| 01        | “It has to do with the genital organ”  | “It has to do with the sexual orientation”   |
| 02        | “Male or female”   | “Same as previous answer”  |
| 03        | “A person’s characteristics through genetics”  | “A person’s characteristics which depends on sexual attraction from the same or opposite gender”                             |
| 04        | “Gender is male or female”   | “Sexual relationship male-female”  |
| 05        | “Gender is a characteristics of every individual, either male, female or transvestite” | “Individual’s interest in male or female sex. A quality or attribute of an individual who is determined for the type of sex” |
| 06        | “Male or female”   | “Sexual act”   |
| 07        | “Gender is the determination of sex. Male or female”                                   | “Gender and sex are almost the same”   |
| 08        | “Sexual affiliation”   | “Relations between two genders”  |
| 09        | “It’s defined on birth, male or female”  | “It has to do with sexuality, evolves and changes”   |
| 10        | “In the aspect of feelings”  | “Biological aspect, a nature’s creation”   |
| 11        | “Male or female”   | “Same as gender”   |
| 12        | “The presence of genital organs determines the gender”                                 | “Sex has to do with sexual relations”  |
| 17        | “It is so simple, that I don’t know how to tell it. Next question!”                    | “Sex, gender”  |

|    |  |   |
|----|--|---|
| 18 | "Characteristics of a person which determines whether he/she is a male or female"  | "If it is meant as an act, it means a sexual relations between two persons, between two genders. But as I understand it is the same with the gender. Gender and sex ar synonyms." |
| 19 | "It is sex, gender. Male or female"  | "It's the same, sex, gender."   |
| 16 | "...as I understand it gender is to what a person belongs, either female gender or male gender, in the aspect of appearance, behaviour and sexual orientation" | "I think it's inter-related...sexual orientation"   |
| 20 | "Male or female"   | "Female or male"  |
| 21 | "Gender orientation"   | "Biology"   |
| 22 | "The way we behave"  | "In this instance it is the birth, how I was born, while gender is how I want to behave, through my behaviour"  |
| 23 | "Gender determination, whether male or female"   | "A relationship between two persons"  |
| 24 | "Gender is what determines the sex, male or female"  | "Almost the same, male sex or female sex"   |
| 25 | "Genital organs relationship to which you belong"  | "Gender, organs' determination"   |

Distinctions between sex and gender seem to be noted by only a limited number of interviewees. As with social workers some the confusion is caused by the use of the two words especially because they are not both commonly used in Albanian.

### ***Gender reassignment surgery and other treatments***

One health professional noted with regard to individuals who want to have gender reassignment surgery that "they should be respected but only if there is basis for this in anatomical and psychological terms".<sup>87</sup> Another professional agreed that it should be available, although recognised that there isn't an infrastructure to do this and for individuals seeking this they have to travel abroad.<sup>88</sup> It was also noted that medically this is a possibility, although conditions in Kosovo are such that it would not be possible to do this.<sup>89</sup>

Gender reassignment surgery should be available said another healthcare professional. However, a further suggestion was that due to its permanent nature there should be a requirement to consult with a psychologist and psychiatrist beforehand.<sup>90</sup>

87 Interview 18

88 Interview 21

89 Interview 23

90 Interview 3

However, this was not a unanimous view, another professional in response to the question whether transgender persons should have access to gender reassignment surgery responded “no, not at all....it’s a mental deviation”. The professional went on to say “our society does not accept this”.<sup>91</sup> This viewpoint was shared by another who stated that “personally I think no” to the availability of gender reassignment surgery for transgender persons.<sup>92</sup> Likewise another professional simply stated that the answer should be “no” without providing any further information.<sup>93</sup> For another respondent, this is a matter that should be settled by law and his view is that “everything that is against nature is a waste of time and I would not propose” such treatment.<sup>94</sup>

At the same time it is encouraging that majority of health professionals interviewed think that gender reassignment surgery should be offered to trans-people if they request it. One of the interviewee’s stated that “everything they request should be offered, as long as it does not damage their health”.<sup>95</sup> However there are still individuals who exercise this profession but do not agree that it is within their scope of obligations and consider it an issue of nature, not people, or as one of the interviewee’s stated: “it should be decided by law. Everything that is against nature, is in vain. I would not recommend it”.<sup>96</sup> Amongst the doctors that were interviewed during this research a few of them expressed their opinion against gender re-assignment stating that “God has decided either male or female. I wouldn’t support even if my children would be members of LGBT community. It is not normal”<sup>97</sup> or “No, not at all. It’s a mental deviation”.<sup>98</sup>

Despite the fact that majority of them agree that gender-reassignment should be offered as a possibility for trans-gender people who request for it, when they were asked whether it can be done in Kosovo, the answers are more inconsistent. Some of the doctors think that it can be done, some of them are not aware whether it can be done, whilst the third group of doctors state that it is not possible. One of them explains “We are not able to offer gender re-assignment for the moment. Because these procedures require special treatment”.<sup>99</sup>

Whilst interviewees provide a range of responses, the latest scientific developments cannot be seen in these responses. The majority recognise that such procedures are not available in Kosovo. However, they do not go on to say as to why or that such procedures should be available. A minority of interviewees seem to be suggesting that all should be provided as the law requires. However, some of these interviewees qualify this statement by suggesting that this by saying that treatment should be available providing that it does not go against nature. Other interviewee’s consider that treatment should only go ahead if a psychologist or psychiatrist has been consulted. Some form of consultation may be necessary due to the permanency of any surgery, however, if this matter is considered from a mental health perspective only then this raises further issues. On the whole, one would expect further detailed answers from health professionals which were not forthcoming in this research. It is the case that for some this may be a combination of lack of knowledge, as well as lack of acceptance whereas for others it is not as clear. Looking to the future increasing awareness of the latest developments in scientific research and treatment, as well as support that should be provided to patients should be a priority.

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91 Interview 19

92 Interview 16

93 Interview 4

94 Interview 8

95 Interview 1

96 Interview 8

97 Interview 4

98 Interview 19

99 Interview 2

## Role of healthcare professionals

The role of health professionals in providing support to transgender persons is not one that is easily recognised across the board. One interviewee was not sure of the position by stating “I am not sure....maybe they have”.<sup>100</sup> Others seem to refuse that health professionals have any role “not at all. Who would support them...abnormal people”.<sup>101</sup> Without providing any specific reasons another interviewee also answered negatively regarding the role of healthcare professionals.<sup>102</sup> Similarly, another respondent stated “we don’t need to provide support, we can ignore them because they are repellent people, they need to be seen by psychiatrists.”<sup>103</sup>

For some health professionals it may be a case of not being within their expertise or lacking in skills to provide the support that is needed. One interviewee pointed out “normally yes they should be....but in my profession, I have not had such requests and I wouldn’t know how to deal with this aspect”.<sup>104</sup>

However another group of professionals did recognise that there is a role for healthcare professionals by stating it is about supporting them in the difficulties that life brings just like for other people.<sup>105</sup> One healthcare professional noted that “of course there is....if they require support from us either before an intervention or in relation to a situation they are not feeling well”.<sup>106</sup> Another view is that the role of doctors in relation to transgender persons is inevitable<sup>107</sup> especially where treatments are sought. This is shared by another interviewee who states that healthcare professionals have a role from diagnosis all the way to post-operation or treatment.<sup>108</sup>

Health professionals can have an instrumental role in providing support and guidance to transgender persons during various stages whether they are considering treatment such as hormone therapy, surgery or are looking for counselling. The fact that a large number of interviewees do not come to the conclusion that they have a role in providing such support is concerning. This not only demonstrates a lack of awareness of the issues facing transgender persons but also lack of knowledge of the latest developments in treatment. The minority that do recognise that they have a role which can be an extensive one throughout the process can be an important group to work with in order to increase awareness and raise

## Legal protection

As in recent times the matter of LGBT rights has become more mainstream, it is being noticed by different sections of society. One interviewee noted the “posters displayed during the summer with freedom for gay, lesbian, bisexual and transgender...I liked this and they were back by the state”.<sup>109</sup>

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100 Interview 18

101 Interview 19

102 Interview 16

103 Interview 4

104 Interview 20

105 Interview 21

106 Interview 22

107 Interview 25

108 Interview 5

109 Interview 17

Another interviewee pointed out “I don’t know if there a law but we are judgemental...of course there should be”<sup>110</sup> legislation in place that protects their rights. At the same time this professional recognised that there is a legal obligation in relation to how patients are treated who said “above all it is the choice of the individual...to be treated equally...to take into account their requests and to listen...”<sup>111</sup> Likewise another respondent pointed out that he isn’t aware of the details but knows state institutions are working towards gender equality.<sup>112</sup>

However, another interviewee in response to the question of whether there is any legal obligation regarding how health professionals treat trans gender persons said “I don’t think we have any legal obligation...”<sup>113</sup>

Whilst information relating to legal standards was scarce among health professionals, there were some who were better informed. One responded “I think the legal framework is well established, where even the Constitution provides for their rights and I think this needs implementing and they need support.”<sup>114</sup> Similarly, another response was that “I think the Constitution permits this but public opinion is not ready to accept these people. The legal framework exists but implementation in practice is not enough.”<sup>115</sup>

The response of health professionals to this question is similar to the preceding questions in that a range of responses is given. Two concerning issues that can be identified is that a limited number of professionals recognise that the legal framework should protect transgender persons, whilst another group believe that they do not have any obligation regarding treatment. Evidently non-discriminatory treatment would be the focus here, although this was not an issue that was mentioned. Yet through the focus group respondents identified prejudice and discrimination as issues that were of concern when seeking to obtain services. On this basis awareness raising is necessary not only of rights of transgender persons but focusing on those areas where health professionals need to show greater care and how they are responsible in ensuring they do not violate their rights.

## **Providing healthcare services to transgender persons**

One psychiatrist noted that it is important to adapt a multidisciplinary approach when treating transgender persons. Organisations where referrals for services could be made to were viewed as important, although such organisations are not always visible. Training was also recognised as an important aspect. Despite limited experiences of treating transgender persons there were instances for example “a male who wanted to be female and came for a consultation to obtain an opinion. I supported him but he didn’t follow up so I don’t know what happened.”<sup>116</sup> The importance of multidisciplinary working was recognised by another professional who noted that it may be useful to have inter-institutional co-operation<sup>117</sup> as for example a psychiatrist may need to cooperate with a social worker or a school.

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110 Interview 20

111 Ibid

112 Interview 3

113 Interview 16

114 Interview 22

115 Interview 22

116 Interview 17

117 Interview 22

It may also be common place that transgender individuals may seek healthcare services like any other patient without making reference to their gender identity and it is important that in such cases the patient and their choices are respected. One professional noted that a transgender patient was treated for substance abuse, although as no issues around gender identity were raised such as concerns the professional noted “we are not permitted to intervene”.<sup>118</sup>

Nevertheless some cases can be complex. One interviewee noted having dealt with a patient who had attempted suicide due to the lack of support from his family and circle relating to the decision taken. During the time when the patient was vulnerable support was provided.<sup>119</sup>

There are also other professionals who have had no exposure to transgender persons. One interviewee maintained that a transgendered person would be treated like any other patient, although also noted that it would not be the professional’s job to deal with every problem mentioned. Further discussion on this topics showed that this professional’s view of gender reassignment surgery is not a medically related matter at all. This is important to identify as it would be this target group that would require up to date information on the latest treatments and the role they can have in improving access and standards of care.<sup>120</sup>

For another interviewee the matter of multidisciplinary working or providing access in general to transgender persons was completely refuted by stating “they should be left..I consider them to be sick....no-one should be dealing with them”.<sup>121</sup> Further if a transgender person requested treatment the response was they would be asked to leave “I would not deal with them”.<sup>122</sup>

Another matter that was addressed by the research was to determine what surgical intervention or hormonal treatment is available in Kosovo. One respondent said “as far as I am aware in the public institutions an intervention has not been performed. For any that I have heard or read about have been performed out of country. As for hormonal treatments I think they can be done...”.<sup>123</sup> One of the first steps that a patient may take in this regard is to obtain further information. However, as one respondent noted patients tend to be quite well prepared as they do their own research so they attend “having more information that I have sometimes” and this occurred in 2 cases.<sup>124</sup> Similarly, another professional noted that “I am not aware that any such treatment is available in Kosovo at present”.<sup>125</sup> This is an opinion that is shared as another respondent stated I don’t think changing your sex in Kosovo is a possibility because “there are no adequate skills or equipment for the performance of these interventions which can be compliance.”<sup>126</sup> However, hormonal treatment seems to be available and one respondent suggested that this tends to be only in Pristina.<sup>127</sup>

Among a minority there are also professionals who say they would refuse to provide any services to transgender persons. For example one respondent when asked how he would react if a transgender person attended for a consultation. His reply was that he would say “break your neck and get out”.<sup>128</sup>

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118 Interview 21  
119 Interview 22  
120 Interview 18  
121 Interview 19  
122 Ibid  
123 Interview 22  
124 Ibid  
125 Interview 23  
126 Interview 25  
127 Interview 5  
128 Interview 4



Whilst some responses are positive such as using multi-disciplinary working and ensuring that services are provided free from discrimination, there are also responses that raise concerns. The unwillingness of some health professionals to provide health services is one of these. Whilst it is important that health professionals did not hold back and explained their true feelings, it is most important that this issue is actively tackled in order to improve access to services. The lack of experience can also impact on access and in this regard training with health professionals may be necessary. Such training may be favourably received especially if arranged with the view to provide latest updates and arranging it by working with health professionals, especially those who view such training necessary and/or have had some experience of providing services to transgender persons.

*Meeting a patient to discuss transitioning*

Table

| Interview | Option a: refer to psychiatrist as this is a mental health issue | Option b: refuse to see patient as this is not a medical matter | Option c: meet the patient to discuss the issue and to see how I and other professionals may be able to help |
|-----------|--|---|--|
| 1         |  |   | X  |
| 2         |  |   | X  |
| 3         |  |   | X  |
| 4         |  | X   |  |
| 5         |  |   | X  |
| 6         |  |   | X  |
| 7         |  |   | X  |
| 8         | X  |   |  |
| 9         |  |   | X  |
| 10        |  |   | X  |
| 11        |  |   | X  |
| 12        |  |   | X  |
| 17        |  |   | X  |
| 18        |  | X   |  |
| 19        |  | X   |  |
| 16        |  |   | X  |
| 20        |  |   | X  |
| 21        |  |   | X  |
| 22        |  |   | X  |
| 23        |  |   | X  |
| 24        |  |   | X  |
| 25        |  |   | X  |

In accordance with the results relating to healthcare professionals elsewhere there are various views expressed relating to transgender persons. For medical professionals this is concerning because irrespective of their views or beliefs on a matter, it may well be a requirement that they are offering assistance. On the whole whilst the majority opined that they would meet with a patient, the concerns remains that there are future doctors who are not open minded or judge a situation where their input is necessary and may well breach their own ethical standards, as well as the law.

## **Training and Information**

During the course of interviews health professionals were also asked whether they would be interested in receiving training relating to trans gender issues and whether they had knowledge of any standards relating to the treatment of trans gender persons. For some this was not a subject matter of any interest either in terms of training or standards "I have not heard, I am not interested, it is a shame to waste time on this".<sup>129</sup> Similarly, another respondent said "no I don't know and I don't want to know. I don't want to have anything to do with them."<sup>130</sup>

On balance the majority said they would be interested in receiving such training and that they were not aware of relevant standards but had an interest in finding out more. This is positive because if there is willingness to engage there may be opportunities to improve standards of care in the future. Similarly, as some also agreed that multidisciplinary working can bring benefits, this is also important to ensure that different professionals work together and also that there is cooperation with organisations that raise awareness of and provide support to transgender persons.

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129 Interview 19

130 Interview 4

## CONCLUSION

In conclusion this report by focusing exclusively on transgender persons brings important insight in relation to the legal framework, views of some transgender persons and information relating to social protection and access to healthcare.

The last couple of years have seen a greater presence of LGBT issues in Kosovo and this is noticeable in this research and with some of the responses that are provided. Such efforts should continue to ensure that there is greater awareness among the general population and duty bearers.

The legal framework has elements which recognise that gender identity is to be protected. This has the potential to contribute towards a range of sectors should discrimination against trans gender persons occur. At the same time the national framework is behind that which has developed at European level especially in ensuring that rights can easily be realised. One example of this is that the process whereby an individual can go through gender reassignment transition is not yet in place. As this can have a fundamental impact on a transgender person's in living their everyday life, it has the potential to affect their private life and their dignity. On this basis it should be addressed as a matter of priority.

Members of the transgender community indicate that a lack of understanding of their gender identity among their families and society more generally can have a drastic impact on their ability to lead a normal life. Some of the respondents shared the difficult and potentially tragic circumstances that can arise due to non-acceptance such as attempted suicide.

Engaging with social workers is another important component where a range of views are expressed on the subject matter. Not all social workers have a clear understanding of the underlying issues but taking into account the lack of exposure to transgender persons this is somewhat understandable. On the whole they appeared to be open minded and showed a conviction in providing services for all those who would be eligible. However, there are gaps to be filled which may improve the services that transgender persons receive. Centre's for Social Work should monitor the situation in relation to transgender persons, identify them as a target group and incorporate them in any planning documents. It is only through effective planning and engagement that trust will be built to reach out to vulnerable individuals and support them through difficult circumstances.

The situation with healthcare professionals seems to be somewhat different. Whilst health professionals have a good understanding of the terminology, treatment and issues related to transgender persons, their outlook is not as positive or as inclusive. A number of professionals either did not recognise that they have a role in supporting transgender persons or were outright against their right to express their gender identity or in assisting them do that. There was also a limited number of health professionals who had direct experience of dealing with transgender patients but they recognised the difficult circumstances being faced by this community and some had noticed the public discourse that has been taking place relating to the LGBT community.

Both groups of professionals said they appreciated the benefits of multidisciplinary working and would be interested in utilising this in the services they provided. This would include non-governmental organisations that provide services, although many did not know which organisations focused on these issues. With regard to both groups there was an interest in attending training to obtain up to date information relating to their approaches when working with transgender persons, as well as having access to standard documents developed nationally or internationally.

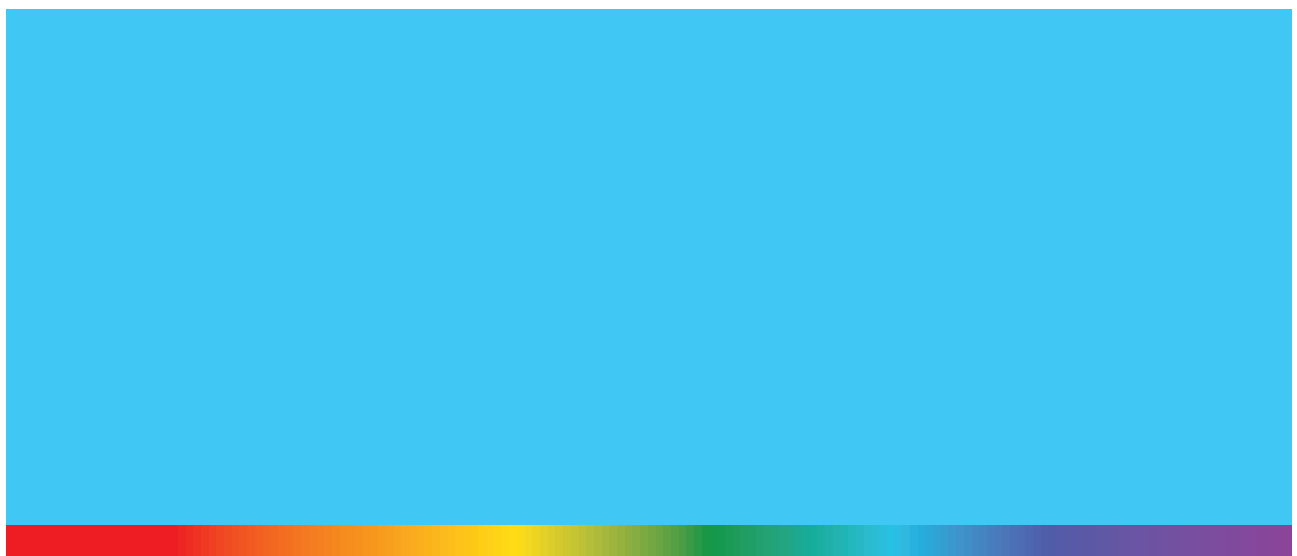
## RECOMMENDATIONS

1. Public institutions should continue to work with civil society to raise awareness and acceptance of transgender persons;
2. Relevant institutions should review primary and secondary legislation to enable transgender persons to change the sex mark on identification documents. For example the Ministry of Internal Affairs should ensure that relevant processes are put in place to enable this.
3. The Ministry of Labour and Social Welfare should include in its strategy the plight of transgender persons and work with the Department of Health and Social Welfare and the Centre for Social Work that provide sufficient resources and services that transgender persons may require such as counselling
4. Centre's for Social Work should continuously review the needs of transgender persons, include these in its annual plan and provide services such as counselling or accommodation/ material support in emergency cases as necessary
5. The Ministry of Health should likewise include in its strategy the needs of transgender persons with a view to ensure that services are available to transgender persons . This should include treatment that transgender persons may seek such as hormone therapy and/or gender reassignment surgery
- 6.
7. Civil society organisations should continue to work with transgender persons to provide support wherever possible, as well as to raise awareness
8. Public institutions as well as social workers and health professionals should embrace multidisciplinary working to ensure the best outcomes are reached for transgender persons including through working with civil society
9. Civil society should work with social workers and health professionals to provide training on rights of transgender persons, as well as using providing the latest information from standard documents and protocol;
10. All institutions should ensure that confidentiality is respected in all processes in social protection as well as healthcare. Data protection protocols should be adopted if not already in existence by Centre's for Social Work and hospitals and co-operation where necessary should be requested from the National Agency for Personal Data Protection.

### **ERAC coalition will further on as part of it advocacy strategy commit to:**

1. Organise meetings with representatives from the Ministry of Health, the Ministry of Labour and Social Welfare, the Ministry of Internal Affairs, the Ministry of Justice, the Office of Good Governance and the Ombudsperson Institution to discuss the findings of this report in detail and consider ways of co-operating through ERAC to fill some of the gaps identified
2. Continuously consider methods to raise awareness of transgender issues whether in meetings with public officials, media appearances or public discussions
3. Provide training to social workers regarding transgender persons and their needs
4. Work with health professionals in relation to the latest developments and provision of any standard documents that may aid treatment
5. Provide support to transgender persons as and when required
6. Conduct some form of monitoring especially in relation to any cases where institutions are contacted regarding specific cases or support is provided relating to transgender rights.





An EU funded project managed by the  
European Union Office in Kosovo