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# TRANS HEALTHCARE IN KOSOVO

# CHALLENGES AND LEGAL PERSPECTIVES

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CENTRE FOR EQUALITY AND LIBERTY OF THE LGBT COMMUNITIES IN KOSOVA (CEL)

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# INTRODUCTION

Transgender individuals face unique healthcare needs related to their gender identity. Ensuring access to gender-affirming healthcare is crucial for the well-being of trans individuals, mental health, and overall quality of life.

Kosovo, as a young and evolving nation, faces numerous challenges in promoting and protecting the rights of its diverse population. Among these challenges are the specific healthcare needs of transgender individuals, whose rights to inclusive and affirming healthcare services require careful consideration and legal attention.

In Kosovo, the legal framework concerning transgender healthcare rights is still developing. There is no specific legislation addressing the healthcare needs of transgender individuals. However, the Constitution of Kosovo guarantees the right to healthcare, and the Law on Health provides a general framework for healthcare services in the country.

Transgender individuals face unique challenges and discrimination when it comes to accessing healthcare. While specific references to "trans rights" or "trans healthcare" may not be explicitly stated in the Universal Declaration of Human Rights (UDHR), the European Convention on Human Rights (ECHR), or the International Covenant on Civil and Political Rights (ICCPR), these international human rights instruments provide a foundation for protecting the rights of transgender individuals, including their access to healthcare.

This paper aims to provide a comprehensive analysis of the challenges faced by transgender individuals in accessing healthcare services in Kosovo, it also explores the existing challenges and legal perspectives surrounding trans healthcare in Kosovo, aiming to provide a comprehensive analysis of the issues at hand and potential pathways for improvement and making a comparative analysis of the legal framework and practices of trans healthcare in Kosovo with those of other countries or regions with more developed systems.

# I. INTERNATIONAL HUMAN RIGHTS FRAMEWORK

**UDHR and Trans Rights:** The UDHR, adopted by the United Nations General Assembly in 1948, establishes the fundamental principles and values of human rights. Although it does not explicitly address transgender rights or healthcare, several articles within the UDHR can be interpreted to support the rights of transgender individuals. Article 1 upholds equality and dignity for all, while Article 2 prohibits discrimination based on various grounds, including "other status," which can encompass gender identity. Article 3 recognizes the right to life, liberty, and security of person, which can be relevant to accessing healthcare. Furthermore, Article 25 recognizes the right to a standard of living adequate for health and well-being, including medical care.[1]

**ECHR and Trans Rights:** The ECHR, a regional human rights treaty, protects fundamental rights and freedoms across Europe. Although it does not explicitly mention transgender individuals or healthcare, its provisions have been interpreted to support their rights. Article 8 guarantees the right to respect for private and family life, which has been understood to encompass gender identity and personal autonomy. Additionally, Article 14 prohibits discrimination on various grounds, including "other status," which can encompass gender identity. Courts, including the European Court of Human Rights (ECtHR), have interpreted these provisions to protect transgender individuals from discrimination and uphold their rights, including access to medical treatment related to gender transition.[2]

**ICCPR and Trans Rights:** The ICCPR, a global human rights treaty, safeguards civil and political rights. Although it does not explicitly mention transgender individuals or healthcare, its provisions can be interpreted to protect their rights. Article 2 prohibits discrimination on various grounds, including "other status," which encompasses gender identity. Article 17 protects the right to privacy, which includes matters related to personal and family life, including gender identity. The United Nations Human Rights Committee, which oversees the implementation of the ICCPR, has provided interpretations that recognize the rights of transgender individuals, including their access to healthcare and legal recognition of gender identity.[3]

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1. Universal Declaration of Human Rights, G.A. Res. 217A (III) (1948).

2. European Convention on Human Rights, Nov. 4, 1950, 213 UNTS 222.

3. International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 UNTS 171.

While the UDHR, ECHR, and ICCPR do not explicitly address trans rights or healthcare, they lay a foundation for protecting the rights of transgender individuals. The principles of equality, non-discrimination, and the right to privacy are central to supporting transgender individuals' access to healthcare. Courts and human rights bodies have interpreted these international instruments to recognize the rights of transgender individuals and uphold their access to healthcare. However, further legal and policy developments are necessary to ensure comprehensive protections for transgender individuals' rights to healthcare globally.

Kosovo should align its legal framework with international human rights standards, such as those set forth in the Yogyakarta Principles and World Professional Association for Transgender Health (WPATH) Standards of Care, to ensure that transgender individuals' rights to healthcare are fully respected and protected. Principle 18 of the Yogyakarta Principles states that everyone has the right to the enjoyment of the highest attainable standard of physical and mental health, without discrimination based on sexual orientation or gender identity. This principle recognizes the importance of providing equal access to healthcare services, including transgender-specific healthcare.

The Yogyakarta Principles emphasize the need for states and healthcare providers to ensure that transgender individuals have equal access to healthcare services, free from discrimination, stigma, and violence. This includes addressing barriers to healthcare, training healthcare professionals on transgender healthcare needs, and ensuring that appropriate and gender-affirming care is available and accessible.[4]

## II.LEGAL FRAMEWORK

Constitutional Provisions and the Right to Health: Kosovo's Constitution recognizes the right to health as a fundamental human right. This guarantees all individuals, regardless of their gender identity, the right to access quality healthcare services without discrimination.[5]

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4. The yogyakarta principles (2006) Yogyakartaprinciples.org Available at: <https://yogyakartaprinciples.org/> (Accessed: 22 June 2023).

5.Constitution of the Republic of Kosovo (2008), available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>. (Accessed 22 June 2023).

**Existing Legal Framework:** While Kosovo lacks specific legislation addressing transgender healthcare, the Law on Health provides a general framework for healthcare provision in the country. Nevertheless, the absence of explicit regulations concerning transgender healthcare rights creates uncertainty and gaps in service provision.

Trans healthcare in EU countries varies to some extent depending on the specific country and its healthcare system. However, there are certain common trends and guidelines across many European Union (EU) countries regarding transgender healthcare. Kosovo could learn from several European countries which are known to have comprehensive transgender healthcare systems. One of the EU countries with the most comprehensive regulation of transgender healthcare is Denmark, which has made significant progress in providing healthcare services for transgender individuals.

The country has implemented policies and practices that aim to support the rights and well-being of transgender people.

The Netherlands is often lauded as a leader in transgender healthcare. The country boasts specialized clinics such as the VU University Medical Center in Amsterdam, which offer a range of gender-affirming treatments, including hormone therapy and surgeries. The Dutch healthcare system operates on an informed consent model, prioritizing patient autonomy and expediting access to necessary care. This approach streamlines the process for transgender individuals seeking hormone therapy, providing an efficient and patient-centered system.[6]

Another country is Sweden that is recognized for its comprehensive healthcare system that includes transgender healthcare. It provides access to hormone therapy, surgeries, and psychological support. The Swedish healthcare system also prioritizes patient autonomy, and the process for accessing transgender healthcare is generally streamlined.

Some EU countries also have specific protocols and guidelines regarding transgender healthcare for minors. These guidelines often focus on psychological support, puberty blockers, and carefully assessing the need for medical interventions. The approach to transgender healthcare for minors varies across countries, and the involvement of parents or guardians may also differ.

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6. Radboud University (2023) Radboud University and Radboud university medical center research team issues recommendations for better transgender care in the Netherlands | Radboud University. Available at: <https://www.ru.nl/en/research/research-news/radboud-university-and-radboud-university-medical-center-research-team-issues-recommendations-for-better-transgender-care-in-the-netherlands>. (Accessed 20 June 2023).



# III.THE IMPORTANCE OF EQUITABLE ACCESS TO TRANSGENDER HEALTHCARE

## A. EQUITY AND HUMAN RIGHTS:

Every individual has the right to equitable access to healthcare, regardless of their gender identity or expression.

The World Health Organization recognizes transgender healthcare as an essential component of comprehensive healthcare services, highlighting the importance of eliminating barriers.

## B. RIGHT TO HEALTH:

International Standards: The United Nations and World Health Organization recognize the right to health as a fundamental human right, encompassing the provision of accessible and appropriate healthcare services.

Non-Discrimination: Denying or limiting transgender individuals' access to healthcare based on their gender identity violates their fundamental human rights and perpetuates systemic discrimination.

Equitable access to transgender healthcare allows individuals to make autonomous decisions about their bodies, gender identity, and healthcare needs.[7]

# IV. ACCESS TO HORMONE THERAPY

Limited availability of hormone therapy treatments in Kosovo has led many trans people to seek alternative options in neighboring countries, particularly North Macedonia. However, this migration often exposes individuals to unsafe practices, unaffordable prices and inadequate medical supervision. Addressing these issues is critical to safeguarding the health and well-being of transgender individuals in Kosovo.

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7.Transgender People and Health Equity - NCSD. Available at: <https://www.ncsddc.org/our-work/health-equity/transgender-people-health-equity/>. (Accessed 20 June 2023)

## A. LIMITED AVAILABILITY OF HORMONE THERAPY IN KOSOVO

### 1.SCARCE RESOURCES:

Kosovo lacks specialized transgender healthcare centers or clinics equipped to provide hormone therapy treatments.

### 2.HEALTHCARE INFRASTRUCTURE:

The absence of comprehensive transgender healthcare infrastructure hinders access to appropriate medical care.

### 3.REGULATORY CHALLENGES:

A lack of clear guidelines and regulations governing transgender healthcare in Kosovo contributes to the limited availability of hormone therapy treatments.

## B.TRANSGENDER HEALTHCARE MIGRATION TO NORTH MACEDONIA

### 1.SEEKING ALTERNATIVES:

Due to limited options domestically, many transgender individuals travel to North Macedonia in search of hormone therapy treatments.

### 2.ACCESSIBILITY AND PROXIMITY:

North Macedonia becomes a preferred destination due to its geographical proximity to Kosovo and relatively more accessible transgender healthcare services.

### 3.SAFETY CONCERNS:

However, seeking treatments in North Macedonia poses safety risks, as regulatory frameworks and standards for transgender healthcare may not be well-established or enforced.

## C. IMPLICATIONS FOR TRANSGENDER INDIVIDUALS

### 1. HEALTH RISKS:

Lack of regulated hormone therapy treatments in Kosovo and reliance on unmonitored practices in North Macedonia expose transgender individuals to potential health risks and complications.

### 2. FINANCIAL BURDEN:

Seeking hormone therapy treatments abroad incurs significant financial burdens for transgender individuals, including travel expenses and treatment costs

### 3. MENTAL HEALTH IMPACT:

The stress and uncertainty associated with seeking hormone therapy outside of Kosovo can negatively impact the mental well-being of transgender individuals.

## D. ADDRESSING THE ACCESS BARRIER IN KOSOVO

### 1. POLICY AND LEGAL REFORMS:

Kosovo should develop comprehensive policies and legal frameworks that recognize the importance of transgender healthcare and establish guidelines for hormone therapy treatments.

### 2. HEALTHCARE INFRASTRUCTURE DEVELOPMENT:

Investing in specialized transgender healthcare centers and clinics within Kosovo will increase access to hormone therapy treatments domestically.

### 3. EDUCATION AND TRAINING:

Healthcare professionals need specialized training to deliver competent and culturally sensitive transgender healthcare services.

Hormone Replacement Therapy (HRT): Hormone therapy is a crucial aspect of transgender healthcare. In most EU countries, transgender individuals can access hormone replacement therapy under the care of healthcare professionals. Typically, this involves a diagnosis of gender dysphoria by a qualified medical professional and ongoing monitoring of hormone levels and health during the treatment. As is the case in Denmark the provision of hormone replacement therapy (HRT) for transgender individuals is regulated by the Danish Health Act. Endocrinologists and specialized healthcare professionals assess individuals seeking HRT, considering factors such as medical history, gender identity, and individual needs. The decision to prescribe hormones is made on a case-by-case basis.

## V. GENDER-AFFIRMING SURGERIES

Gender-affirming surgeries play a crucial role in the healthcare journey of many transgender individuals, providing them with the opportunity to align their physical appearance with their gender identity. Unfortunately, Kosovo currently faces a significant lack of gender-affirming surgeries, resulting in inadequate healthcare options for transgender individuals.

As is the case with hormone therapy, there is a:

### A. LIMITED INFRASTRUCTURE FOR GENDER-AFFIRMING SURGERIES IN KOSOVO

#### 1. HEALTHCARE FACILITIES:

Kosovo lacks specialized surgical centers with the capacity to perform gender-affirming surgeries, contributing to the absence of these procedures within the country.

#### 2. SURGICAL EXPERTISE:

The shortage of healthcare professionals trained in gender-affirming surgeries poses a significant barrier to the provision of these procedures in Kosovo.

#### 3. FINANCIAL RESOURCES:

Insufficient funding and resources allocated to transgender healthcare services and infrastructure limit the availability of gender-affirming surgeries.

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8. Denmark - The Health Act (No. 546 of 2005). (2005). Available at: [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_isn=70825](http://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=70825). (Accessed 19 June 2023)



## B.LEGAL AND POLICY GAPS

### 1.RECOGNITION AND REGULATION:

The absence of comprehensive legal frameworks and regulations specifically addressing gender-affirming surgeries hinders their availability in Kosovo.

### 2.REIMBURSEMENT AND INSURANCE COVERAGE:

Limited or nonexistent reimbursement schemes and insurance coverage for gender-affirming surgeries contribute to their unavailability, exacerbating financial barriers for transgender individuals.

## C. SOCIETAL ATTITUDES AND STIGMA

### 1.SOCIAL ACCEPTANCE:

Widespread stigma, discrimination, and lack of understanding surrounding transgender identities and healthcare needs contribute to the reluctance in developing gender-affirming surgical services in Kosovo.

### 2. CULTURAL FACTORS:

Traditional norms and cultural beliefs may influence societal attitudes, leading to a lack of support for transgender individuals' access to comprehensive healthcare, including surgical interventions.

## D.IMPLICATIONS OF THE LACK OF GENDER-AFFIRMING SURGERIES

### 1.HEALTHCARE DISPARITIES:

The absence of gender-affirming surgeries creates significant disparities in healthcare options between transgender individuals in Kosovo and those in countries where these procedures are available.

### 2.IMPACT:

The unavailability of gender-affirming surgeries can have detrimental effects on the mental well-being and quality of life of transgender individuals, as it hampers their ability to fully express their gender identity.

### 3.FORCED MIGRATION:

The lack of surgical options within Kosovo may compel transgender individuals to seek healthcare abroad, often at considerable financial and emotional costs.

Gender-Affirming Surgeries: Access to gender-affirming surgeries, such as chest reconstruction (for transmasculine individuals) or genital reconstruction (for both transmasculine and transfeminine individuals), may vary between EU countries. Some countries have established comprehensive gender reassignment surgery programs within their healthcare systems, while others may have more limited options or require individuals to seek these procedures abroad.

## VI. PSYCHOLOGICAL SUPPORT

Access to transgender healthcare, including hormone therapy and gender-affirming surgeries, has been shown to improve mental health outcomes and quality of life for transgender individuals.

Denying or delaying necessary healthcare can lead to increased rates of depression, anxiety, and suicide among transgender individuals.

Many EU countries recognize the importance of mental health support for transgender individuals. Access to mental health professionals with experience in transgender issues, such as psychologists or psychiatrists, may be available to assist individuals throughout their transition process, also several EU countries provide counseling services and support groups specifically tailored to transgender individuals. These resources aim to provide emotional support, guidance, and information to transgender people and their families.

In Kosovo the mental health support is usually provided exclusively by LGBTQ+ organizations with limited help from the government.

## VII.FINANCING

The availability and extent of healthcare coverage for transgender-related treatments can differ between EU countries. Some countries provide full or partial coverage for transgender healthcare services under their national healthcare systems, while in others, individuals may need to rely on private insurance or cover the costs themselves.

Research has shown that the cost of surgery and hormones is not significantly higher than the cost of treatment for depression, substance abuse and HIV/AIDS, all of which are highly prevalent in those who are transgender but are not in a position to medically transition to the opposite sex.[9]

Ensuring equitable access to transgender healthcare requires addressing the financial barriers that hinder access to essential treatments. Legal frameworks, insurance coverage, and public funding mechanisms play a vital role in supporting transgender individuals' healthcare needs.

By implementing inclusive insurance policies, allocating sufficient public resources, and enacting anti-discrimination laws, policymakers can promote equitable access to transgender healthcare and alleviate the financial burden faced by transgender individuals. This will contribute to a more inclusive and just healthcare system that respects and fulfills the rights and healthcare needs of transgender individuals.

### A. LEGAL FRAMEWORKS FOR TRANSGENDER HEALTHCARE FINANCING

#### 1.ANTI-DISCRIMINATION LAWS:

Analyzing legal provisions that prohibit discrimination based on gender identity or expression in healthcare financing, ensuring equal treatment for transgender individuals.

#### 2.HEALTH INSURANCE LAWS:

Examining the extent to which health insurance laws cover transgender healthcare, including hormone therapy, mental health support, and gender-affirming surgeries.

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9.Crowley, D., Cullen, W. and Van Hout, M.C. (2021) "Transgender health care in primary care," *British Journal of General Practice*, 71(709), pp. 377–378.  
Available at: <https://doi.org/10.3399/bjgp21x716753>. (Accessed 19 June 2023)

### 3.PUBLIC HEALTH PROGRAMS:

Assessing the inclusion of transgender healthcare services within Medicaid and other public health programs, and the impact on access and affordability.

## B. PUBLIC FUNDING AND RESOURCES

### 1.GOVERNMENT BUDGET ALLOCATION:

Evaluating the extent to which government budgets allocate sufficient funds for transgender healthcare services, considering the unique healthcare needs and requirements of transgender individuals.

### 2. SUBSIDIES AND FINANCIAL ASSISTANCE:

Analyzing the provision of subsidies and financial assistance programs to support transgender individuals in accessing affordable healthcare, including hormone therapy and gender-affirming surgeries.

### 3.PUBLIC-PRIVATE PARTNERSHIPS:

Examining collaborations between public entities and private organizations to increase financial support for transgender healthcare, including initiatives that expand insurance coverage and reduce out-of-pocket expenses.

## C.FINANCIAL BARRIERS AND EQUITABLE ACCESS

### 1.AFFORDABILITY:

Assessing the financial burden faced by transgender individuals due to the high costs of hormone therapy, surgeries, and ongoing healthcare maintenance.

### 2.SOCIOECONOMIC DISPARITIES:

Analyzing the disproportionate impact of financial barriers on marginalized transgender populations, considering the intersections of gender identity, race, socioeconomic status, and access to quality healthcare.

### 3.HEALTH EQUITY:

Exploring the relationship between financial barriers and health disparities among transgender individuals, highlighting the importance of addressing financial obstacles to achieve equitable access to healthcare.



## VIII.RECOMMENDATIONS

### A.NON-DISCRIMINATION:

Recognize that transgender individuals have the right to access healthcare services without facing discrimination based on their gender identity or expression.

Implement robust legal protections to prohibit discrimination against transgender individuals by healthcare providers, institutions, and insurers.

### B.COMPREHENSIVE HEALTHCARE SERVICES:

Establish guidelines and protocols for healthcare providers to deliver gender-affirming services, including hormone replacement therapy (HRT) and gender-affirming surgeries, based on international best practices and standards of care.

Ensure the availability of trained healthcare professionals who can provide competent and culturally sensitive care to transgender patients.

Include coverage for gender-affirming healthcare services in public and private healthcare plans, ensuring their accessibility and affordability for transgender individuals.

### C.INFORMED CONSENT:

Recognize the principle of informed consent as a fundamental aspect of transgender healthcare.

Ensure that transgender individuals are provided with comprehensive information about the potential risks, benefits, and alternatives of gender-affirming treatments, allowing them to make autonomous decisions about their healthcare.

### D. MENTAL HEALTHCARE:

Recognize the importance of mental healthcare for transgender individuals, including access to gender-affirming counseling and psychological support. Encourage the training of mental health professionals in understanding the specific mental health challenges faced by transgender individuals and providing appropriate care.

## E. PRIVACY AND CONFIDENTIALITY:

Establish policies that safeguard the privacy and confidentiality of transgender individuals seeking healthcare, protecting their sensitive personal information and gender identity.

Develop protocols to ensure that transgender patients are addressed and treated in a manner consistent with their gender identity and that their medical records reflect their gender identity accurately.

## F. HEALTHCARE PROVIDER TRAINING:

Integrate transgender healthcare education and training into the curricula of medical schools, nursing programs, and other healthcare training institutions.

Offer continuing education opportunities to healthcare professionals to enhance their knowledge and skills in providing transgender-inclusive care.

## G. ADDRESSING THE GAP: STEPS TOWARDS INCLUSIVE TRANSGENDER HEALTHCARE IN KOSOVO

### 1. POLICY REFORMS:

Developing and implementing comprehensive legal frameworks and regulations that specifically address gender-affirming surgeries will pave the way for their availability in Kosovo.

### 2. CAPACITY BUILDING:

Investing in specialized training programs for healthcare professionals to enhance their expertise in gender-affirming surgeries is crucial for the provision of these procedures within the country.

## H. MONITORING AND ACCOUNTABILITY:

Establish mechanisms to monitor the implementation of transgender healthcare rights and the effectiveness of policies and practices in meeting the needs of transgender individuals. Create avenues for transgender individuals to report instances of discrimination, mistreatment, or denial of healthcare services, and establish procedures for investigating and addressing such complaints.

## IX. CONCLUSION

Guaranteeing access to gender-affirming healthcare services is a fundamental human right for transgender individuals in Kosovo. By adopting and implementing policies and practices that prioritize transgender healthcare rights, Kosovo can ensure the well-being, dignity, and equality of all its citizens.

Urgent action is needed to improve access to hormone therapy treatments within Kosovo, including the development of policies, legal reforms, and investment in healthcare infrastructure. By addressing these access barriers, Kosovo can ensure the well-being, safety, and rights of transgender individuals, promoting inclusivity and equality within its healthcare system.

Ensuring equitable access to transgender healthcare is not only a matter of human rights but also a step towards a more inclusive and just society. By embracing an informed consent model, providing comprehensive healthcare services, and addressing financial barriers, Kosovo can pave the way for progressive transgender healthcare practices.

It is imperative that policymakers, healthcare professionals, and society as a whole work together to eliminate obstacles and guarantee that transgender individuals can access the care they need to live healthy and authentic lives.

