



# Elections in Kosovo and Human Rights

Tackling Hate Speech and Institutional Accountability

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

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MARCH, 2025

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This report is made possible with the support of the Swedish International Development Agency (SIDA). The opinions expressed in this publication do not necessarily reflect the views of SIDA.

# TABLE OF CONTENTS

Introduction.....	4
International and Domestic Legal Framework Governing Elections.....	5
Domestic Legal Framework for Elections in Kosovo.....	6
Review of PZAP and Supreme Court decisions.....	7
Decision of the PZAP/ECAP (Anr.70/2025, dated 22.01.2025).....	8
Second PZAP decision.....	9
Third PZAP decision.....	10
Supreme Court verdict AA.nr.28/2025.....	11
PZAP Decisions Anr. 235/2025, Anr. 264/2025 and Anr. 327/2025.....	12
Supreme Court verdicts AA.nr.31/2025 and AA.nr.33/2025.....	14
Conflict of ECtHR Jurisprudence and the Kosovo Supreme Court Verdicts.....	16
Conclusions.....	17

# INTRODUCTION

The 2025 Kosovo general elections were a fiercely contested affair, reflecting deep political divisions and raising critical questions about the integrity of the electoral process. While the election was marked by intense political competition, it also highlighted serious concerns regarding human rights, particularly the treatment of marginalized groups such as the LGBTI+ community. In the wake of the elections, numerous complaints were filed with the Election Complaints and Appeals Panel (PZAP), some of which were later reviewed by the Supreme Court, addressing allegations of electoral misconduct, hate speech, and institutional failures in ensuring fair and inclusive democratic participation.

Kosovo's electoral process is governed by a legal framework designed to ensure transparency, fairness, and the protection of fundamental rights. The Central Election Commission (CEC) is responsible for organizing and overseeing elections, while the Election Complaints and Appeals Panel (PZAP) serves as the primary body for adjudicating electoral disputes. The Supreme Court, as the highest judicial authority, plays a crucial role in reviewing PZAP decisions<sup>[1]</sup> and ensuring that the electoral process adheres to constitutional and international human rights standards. These institutions are tasked with safeguarding free and fair elections, preventing discrimination, and addressing violations that may compromise democratic integrity.

This analysis will examine the legal decisions of the Election Complaints and Appeals Panel (ECAP/PZAP) and the Supreme Court of Kosovo, alongside key legal provisions that define electoral integrity, human rights protections, and the accountability of institutions in preventing and sanctioning hate speech during electoral campaigns. By analyzing these legal decisions, this paper will identify gaps in legal enforcement, challenges in combating electoral hate speech, and necessary reforms to strengthen protections for marginalized communities.

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1. Assembly of the Republic of Kosovo (2023) Law No. 08/L-228 on General Elections in the Republic of Kosovo. Official Gazette of the Republic of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=77074>

# INTERNATIONAL AND DOMESTIC LEGAL FRAMEWORK GOVERNING ELECTIONS

Elections in Kosovo are governed by a combination of international and domestic legal instruments that establish fundamental principles for democratic participation, electoral integrity, and the protection of human rights. The international legal framework sets out universal election standards, while domestic laws regulate the implementation and administration of elections at the national level.

At the international level, several key legal instruments establish the foundation for electoral rights and democratic governance. These include the **Universal Declaration of Human Rights (UDHR)**, which affirms the right of every individual to participate in free and fair elections,[2] and the **International Covenant on Civil and Political Rights (ICCPR)**, which further elaborates on political participation, electoral fairness, and non-discrimination.[3] Additionally, the **European Convention on Human Rights (ECHR)**, particularly **Protocol No. 1**, guarantees the right to free elections and establishes obligations for states to uphold democratic processes.[4] The **jurisprudence of the European Court of Human Rights (ECtHR)** plays a crucial role in interpreting these provisions and ensuring that electoral practices align with established human rights standards. These international instruments define key aspects of the electoral process, including the right to vote and stand for election, the principles of universal and equal suffrage, transparency, and institutional accountability in the conduct of elections.

Article 10 of the **European Convention on Human Rights (ECHR)** guarantees the **right to freedom of expression**, which encompasses the freedom to hold opinions and to receive and impart information and ideas without interference by public authority. However, this right is not absolute and can be subject to limitations, particularly when speech incites hatred or discrimination. Article 14, on the other hand, ensures **non-discrimination** in the enjoyment of the rights and freedoms set forth in the ECHR. It mandates that all individuals be treated equally, without discrimination on any ground, including sexual orientation and gender identity.[5] These two provisions are crucial in balancing the freedom of expression with the protection against hate speech and discriminatory rhetoric, especially in contexts such as political campaigns. When political discourse incites hate or discrimination against vulnerable groups, such as the LGBTI+ community, these articles provide a legal basis for limiting harmful speech to ensure that human dignity and equality are upheld, thus promoting a harmonious and inclusive society.

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2. United Nations. (1948) Universal Declaration of Human Rights. Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

3. United Nations. (1966) International Covenant on Civil and Political Rights. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

4. Council of Europe. (1952) Protocol No. 1 to the European Convention on Human Rights. Available at: [https://www.echr.coe.int/documents/d/echr/protocol\\_01\\_eng](https://www.echr.coe.int/documents/d/echr/protocol_01_eng)

5. European Court of Human Rights (ECtHR). (1950). European Convention on Human Rights, Articles 10 (Freedom of Expression) and 14 (Non-Discrimination). Council of Europe. Available at: [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf)

# DOMESTIC LEGAL FRAMEWORK FOR ELECTIONS IN KOSOVO

Kosovo's domestic electoral framework is structured around its Constitution, primary legislation, and regulatory acts issued by electoral institutions. These legal instruments define the structure, organization, and functioning of electoral processes, ensuring compliance with democratic principles and human rights obligations.

The Constitution of the Republic of Kosovo serves as the supreme legal authority governing elections, guaranteeing political rights, equality, and non-discrimination. Article 45 of the Constitution explicitly states that every citizen of Kosovo has the right to vote and be elected, without discrimination on any ground.<sup>[6]</sup> This provision reflects Kosovo's commitment to democratic participation and aligns with international electoral standards. Furthermore, the Constitution incorporates international human rights instruments, making them directly applicable within Kosovo's legal system and reinforcing protections for electoral rights.

The Law No. 08/L-228 on General Elections in the Republic of Kosovo establishes the primary legal framework for conducting elections, outlining the responsibilities of electoral bodies, the rights of voters and candidates, and mechanisms for addressing electoral disputes. This law regulates all aspects of the electoral process, including voter registration, candidate eligibility, campaign financing, election monitoring, and dispute resolution.<sup>[7]</sup> Importantly, it includes provisions aimed at preventing discrimination in the electoral process, though challenges remain in its effective enforcement, particularly concerning the protection of LGBTI+ individuals from electoral-related hate speech and exclusion.

The Law No. 05/L-021 on Protection from Discrimination is a fundamental legal instrument that aims to ensure equality and non-discrimination in all areas of public life, including elections. It establishes clear legal protections against discrimination based on sexual orientation, gender identity, and other protected characteristics,<sup>[8]</sup> reinforcing Kosovo's commitment to human rights and democratic principles.

The Code of Conduct for Elections in Kosovo serves as a crucial regulatory instrument aimed at ensuring ethical campaign practices, preventing electoral misconduct, and safeguarding fundamental human rights, including protection from hate speech and discrimination. It establishes binding rules for political parties, candidates, media outlets, and election officials, with the primary goal of promoting fairness, transparency, and respect for democratic principles.

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6. Republic of Kosovo. (2008) Constitution of the Republic of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

7. Assembly of the Republic of Kosovo (2023) Law No. 08/L-228 on General Elections in the Republic of Kosovo. Official Gazette of the Republic of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=77074>

8. Assembly of the Republic of Kosovo (2015) Law No. 05/L-021 on Protection from Discrimination. Official Gazette of the Republic of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10924>

Although Kosovo's legal framework guarantees political rights and non-discrimination, the practical experiences of LGBTI+ individuals in the electoral process reveal systemic challenges. During electoral campaigns, hate speech targeting LGBTI+ individuals has been a recurring issue, with political actors often using discriminatory rhetoric to mobilize voters. Despite the existence of legal mechanisms to combat hate speech and protect political participation, enforcement remains inconsistent, and institutional accountability is often lacking.

The Election Complaints and Appeals Panel (PZAP) and the Supreme Court play a crucial role in addressing electoral disputes, including cases involving discrimination and hate speech. However, their effectiveness in upholding LGBTI+ rights in elections depends on consistent legal interpretations, proactive enforcement, and institutional willingness to sanction violations. The failure to adequately address these issues not only undermines electoral integrity but also contributes to the marginalization of LGBTI+ individuals from political and public life.

## REVIEW OF PZAP AND SUPREME COURT DECISIONS

In the first complaint regarding the use of discriminatory language filed with the **Election Complaints and Appeals Panel (PZAP)**, **CEL Kosova and Dylberizm** argued that the political subject **"Coalition for Family"** had committed serious violations of the **Law on General Elections in the Republic of Kosovo**, the **Code of Conduct for Political Entities**, the **Anti-Discrimination Law**, and the **Constitution of Kosovo**. Specifically, during a rally held in Peja and a television program, several candidates from this subject used **inciting and discriminatory language** against the LGBTI+ community, promoted division and fear among the citizens of Kosovo, and incited hate through verbal statements and visual content.

In the content of the materials analyzed by PZAP/ECAP, several statements of a discriminatory nature were identified, including:

Characterizing the promotion of LGBTI+ community rights as *"nonsense"* and *"against human nature"*, creating a narrative that portrays these rights as a *"threat to the future of Albanians"*.

The statement that *"love between LGBTI+ people is shameful"*, aiming at the public stigmatization of LGBTI+ people.

Another candidate from the same subject claimed that LGBTI+ community rights are against human nature and represent social degeneration.



## DECISION OF THE PZAP/ECAP (ANR.70/2025, DATED 22.01.2025)

The PZAP/ECAP accepted as grounded the complaint of the organizations CEL Kosova and Dylberizm and found that the political entity had violated the Code of Conduct for political entities, their supporters and candidates. As a result:

A fine of 4,500 euros was imposed on the political entity “Koalicioni për Familje”, headquartered in Prishtina.[9] The political entity was forced to pay the fine within 15 days from the date of entry into force of the decision.

### PZAP/ECAP’S REASONING FOR THE DECISION

In its reasoning for the decision, the PZAP/ECAP found that the material evidence presented in the complaint fully supported the allegation of a violation. Acting in accordance with Article 13, paragraph 6 of the ECAP Rules and Procedures (No. 01/2024), the panel undertook an investigation[10] into the allegations of the complaining organizations and concluded that the use of such language:

- Violates the Code of Conduct for Political Entities.
- Contradicts the Law on General Elections.
- Violates the constitutional rights of the LGBTI+ community.
- Constitutes a violation of Article 34, point 1.11 of the Law on General Elections in Kosovo.

The **PZAP Decision (Anr.70/2025)** represents a significant legal precedent in the context of Kosovo's electoral process, particularly regarding the **protection of LGBTI+ rights** and the fight against **hate speech** during political campaigns. By addressing the violations committed by the “**Coalition for Family**” in this case, the panel not only acted in line with existing electoral laws and human rights protections but also reinforced the importance of **institutional accountability** in the political sphere.

By applying these legal frameworks, PZAP demonstrated that **discriminatory language** and **hate speech** have no place in political campaigns and that such conduct should be penalized. The decision served as a reminder that **violations against fundamental human rights**, including the rights of the LGBTI+ community, cannot be tolerated under the guise of political discourse.

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9. PZAP decision Anr.70/2025, dated 22.01.2025

10. Election Complaints and Appeals Panel (2024). Regulation No. 01/2024 on the Procedures for the Submission and Decision of Complaints. Available at: <https://pzap.rks-gov.net/wp-content/uploads/2024/09/Rregullore-Nr.01-2024-Per-Procedurat-e-Parashtrimit-dhe-Vendosjes-se-Ankesave-3.pdf>

## SECOND PZAP DECISION

On **25 January 2025**, the Panel for Complaints and Appeals (PZAP) upheld the complaint submitted by CEL Kosova and Dylberizm, decision in favor of sanctioning the political entity **Koalicioni për Familje** for violating the **Code of Conduct for Political Entities, Supporters, and Candidates**. As a result, the political entity was fined €5,000, with an obligation to pay the penalty within 15 days from the date the decision became final. The complaint was based on a Facebook post made by a candidate from the party, who used discriminatory language against the LGBTQ+ community. In his statement, published during the election campaign, he characterized LGBTQ+ rights as “degeneracy” and affirmed his opposition to same-sex marriage in a manner deemed by the PZAP as **inciting discrimination and hate speech**.

In its legal reasoning, the PZAP again referred to **Article 34, paragraph 1, point 1.11 of the Law on General Elections**, which explicitly prohibits **discriminatory and inflammatory rhetoric** by political entities during electoral campaigns. The Panel emphasized that while political expression enjoys protection under **Article 10 of the European Convention on Human Rights (ECHR)**, this protection is **not absolute** when such speech **targets and marginalizes specific groups**. The decision underlined that **the intent, context, and impact** of the statement were decisive in determining whether it constituted hate speech. Given that the statement was made during an election period, was publicly accessible, and targeted a vulnerable community, the PZAP concluded that it **undermined democratic values and the fairness of the electoral process** by fostering a **hostile and exclusionary environment**.

This decision followed the prior decision, in which this political entity was fined for using hate speech during campaign rallies and televised appearances. In contrast, this case focused **solely on online discourse**, particularly **the role of social media in amplifying discriminatory rhetoric**. The increased fine to **€5,000** signaled a **stricter approach** by the PZAP in addressing **explicit online statements that perpetuate hate speech**. This decision also reinforced the growing accountability of political candidates for their statements, establishing that social media is not an unregulated space for political actors and that political discourse, regardless of the platform, remains subject to electoral regulations.

Furthermore, this decision highlighted the **delicate balance between free speech and protection from discrimination**. Under **Article 10 of the ECHR**, political speech is generally afforded a high degree of protection. However, this protection is **not unlimited**, particularly when it conflicts with the rights safeguarded under **Article 14 of the ECHR**, which prohibits discrimination.

The decision aligns with **European Court of Human Rights (ECtHR) jurisprudence**, which recognizes that **speech that incites discrimination or hatred may be lawfully restricted** in a democratic society. The decision therefore sets an important precedent, reinforcing the principle that **elections must be conducted in an environment free from hate speech and discrimination**, ensuring the protection of marginalized groups while upholding the integrity of the democratic process.

Following these two decisions, the fined political entity, filed appeals with the **Supreme Court of Kosovo**, challenging both the decision on the fine of 4,500 euros and the decision on the fine of 5,000 euros. However, the Supreme Court **rejected** both appeals, relying on Article 118.4 of Law No. 08/L-228 on General Elections in the Republic of Kosovo. The Supreme Court considered the appeal inadmissible, thus upholding the ECAP decision as final and enforceable.[11,12]

### THIRD PZAP DECISION

On January 27, 2025, the Election Complaints and Appeals Panel (PZAP) adjudicated complaints submitted by the Non-Governmental Organizations Dylberizm and CEL Kosova, on January 24, 2025 and January 25, 2025. Following a thorough review of the submitted evidence, the PZAP **upheld the complaints**, determining that the political entity **Koalicioni për Familje**, had violated the **Code of Conduct for Political Entities, Their Supporters, and Candidates**. As a consequence, the panel imposed a monetary sanction of 7,000 euros on the political entity.

The complaints specifically addressed statements made a candidate for member of parliament from **Koalicioni për Familje**, who, in a public post, stated:

*"Remember the responsibility you will entrust to the party you vote for and the harm it may cause to their future with the degenerate phenomena that are being served to you."*

The complaints contended that this rhetoric, along with additional statements made by other candidates of Koalicioni për Familje, demonstrated a **deliberate disregard for the PZAP's prior decisions** and contravened the principles of a peaceful and respectful electoral process. The panel conducted an extensive review of the available materials, which included public statements and social media posts by candidates of the political entity.

The content in question contained expressions such as *"shame on you,"* and references to *"protecting our human dignity and the continuity of life," "safeguarding the future of our children from degeneration and corruption," "social anomalies,"* and *"degenerative phenomena."*

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11. Gjykata Supreme e RKS (2025) AA.nr.11/2025

12. Gjykata Supreme e RKS (2025) AA.nr. 15/2025

The PZAP found that such language constituted a direct **violation of Article 34, paragraph 1, point I.11 of the Law on General Elections (LZP)[13]**, which explicitly prohibits:

*"The use of language, whether in written or oral form, that incites or provokes, or may incite or provoke, another person to commit an act of violence against others or property, or that incites or may incite hatred against others by publishing or using photographs, symbols, or any other material that has or may have such an effect."*

## **SUPREME COURT VERDICT AA.NR.28/2025**

The Supreme Court of Kosovo overturned the decision of the Panel for Complaints and Petitions (PZAP) by decision that the claims made by Dylberizm and CEL Kosova were "unfounded."

The PZAP had initially in the decision Anr. 183/2025 upheld the two complaints by CEL Kosova and Dylberizm, arguing that the statements made by the political candidates, which included declarations against same-sex marriage and LGBTQ+ rights, amounted to hate speech. Based on this, PZAP imposed sanctions on the subject "Koalicioni për Familje."

The Supreme Court and PZAP had fundamentally different interpretations of what constitutes hate speech. PZAP had found that the statements made by the candidates, which rejected same-sex marriage and advocated for traditional family values, violated the Code of Conduct for Political Subjects due to their discriminatory nature. PZAP identified the language used as harmful, particularly in the context of an electoral campaign where public figures hold significant influence over public opinion.

In contrast, the Supreme Court dismissed these concerns, arguing that the statements did not qualify as hate speech because they did not incite violence or hatred. However, this narrow definition of hate speech is concerning because it overlooks the potential for harm and discrimination created by such statements. PZAP had identified the use of terms like "degeneration," "social anomaly," and "corruption" as inciteful, harmful, and constituting direct discrimination against the LGBTI+ community. This language, according to PZAP, is not only prejudicial but also has the potential to incite hatred and harm the dignity of LGBTI+ individuals. Meanwhile, the Supreme Court treated these expressions as part of a legitimate political program, viewing them as a mere political opinion without considering their potential impact in fostering intolerance in society. This narrow interpretation of "inciteful language" overlooks the damaging effect it can have on public perceptions, attitudes and potential to incite violence towards the LGBTI+ community.

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13. PZAP decision Anr.183/2025, dated 27.01.2025

The Supreme Court's argument is deficient, as it did not take into account international standards set by the European Court of Human Rights (ECtHR), which has consistently emphasized that protecting individual dignity and preventing discrimination are fundamental human rights principles. In this case, the Supreme Court sidelined these standards, prioritizing a narrow interpretation of freedom of expression without considering the potential negative impact on marginalized groups. This failure to apply ECtHR standards undermines the broader protection of human rights in the country.

This decision has direct consequences on both society and politics in Kosovo. It sets a dangerous precedent where political discourse can use hate-driven and exclusionary rhetoric without legal consequences. This decision could increase polarization and intolerance in society, legitimizing the use of language that incites discrimination and hatred against the LGBTI+ community. The long-term impact of this decision could be deeply detrimental to fundamental human rights, undermining the potential for a more equal and inclusive society.

In essence, the decision didn't just affect the LGBTI+ community—it risked creating a broader atmosphere where any attempts to curb discriminatory language and actions in politics were weakened, leaving individuals and groups vulnerable to further marginalization. This dangerous precedent called into question the effectiveness of legal mechanisms designed to protect against hate speech and ensure equal treatment in Kosovo's political landscape.

## **PZAP DECISIONS ANR. 235/2025, ANR. 264/2025 AND ANR. 327/2025**

In the case reviewed by the Electoral Complaints and Appeals Panel (ECAP), with decision Anr. 235/2025 dated 30.01.2025, the complaint filed by CEL Kosova and Dylberizim against the same political entity, regarding the use of hate speech and violation of the Code of Conduct for Political Entities, their Supporters and Candidates, was accepted as well-founded. As a result, the ECAP imposed a fine of 7,500 euros on the political entity in question.

The Panel, after reviewing all the documents and evidence presented, found that the language used by the candidate of the political entity, on the social network Facebook during the opening of the election campaign on 27 January 2025, contained clear elements of incitement to hatred and discrimination against the LGBTI+ community. The panel assessed that the candidate's statements contained direct and repeated rhetoric against organizations that support the rights of the LGBTI+ community, accusing them of "degeneration of children" and inviting his supporters to engage against them.

In its reasoning, the ECAP relied as previously on Article 34, paragraph 1, point 1.11 of the Law on General Elections (LZP), which prohibits the use of language that incites or provokes violence against certain persons or groups, or that may create a climate of hatred in public space. The Panel also relied on Article 13, paragraph 6 of the ECAP Rules and Procedures No. 01/2024, by undertaking a direct investigation into the allegations of the complainants and by verifying the materials published by the candidate on social networks.

The Panel found that the political entity Coalition for Families did not respond within the legally prescribed deadline to defend its positions, without presenting any objections to the allegations made in the complaint. The entity's failure to respond was considered an additional element that strengthens the merits of the complaint. For this reason, the ECAP decided to apply the sanction provided for in the Code of Conduct for Political Entities, imposing the fine as a punitive and preventive measure for similar violations in the future.

This decision confirms the importance of respecting democratic standards and electoral rules by all political entities, guaranteeing a campaign free from discrimination and hate speech. Furthermore, the decision constitutes an important precedent in relation to the implementation of provisions that protect citizens' rights and the creation of an equal electoral environment for all participants.

Another significant ruling Anr. 264/2025 by the Election Complaints and Appeals Panel (PZAP) which was issued on 01.02.2025 after the Supreme Court verdict AA.nr.28/2025, this decision in response to an appeal submitted by CEL Kosova and Dylberizm. The appeal concerned statements made during the electoral campaign by representatives of the political entity "Koalicioni për Familje," which were found to be in violation of the Code of Conduct for Political Entities, their Supporters, and Candidates.

Specifically, the ruling addressed inflammatory and stigmatizing language directed at the LGBTI+ community, including public statements made during a campaign event in Ferizaj on 28.01.2025 and subsequent posts on social media platforms. The Panel determined that the language used by the party's candidates, contained elements of incitement to hatred and discrimination, thus breaching Article 34(1.11) of the Law on General Elections. This provision explicitly prohibits political subjects, candidates, and their supporters from using language that incites violence or hatred against individuals or groups.

In its reasoning, PZAP emphasized the obligation of all political entities to uphold ethical standards and democratic values during electoral campaigns, ensuring an environment of tolerance, respect, and lawful political competition. The decision reaffirmed that expressions targeting specific communities with derogatory or dehumanizing language contribute to an unsafe and divisive electoral atmosphere, undermining the integrity of the democratic process. Consequently, "Koalicioni për Familje" was sanctioned with a fine of €7,600.



Following these rulings and in the midst of legal chaos created by the verdicts of the Supreme Court of Kosovo, PZAP came out with another decision Anr. 327/2025 which was issued on 09.02.2025, where the same political subject was fined with €5,500.

These rulings were consistent with previous jurisprudence reinforcing the principle that political discourse must not cross the threshold into hate speech or discriminatory rhetoric. PZAP has demonstrated consistent adherence to the principles of law in its rulings, ensuring a fair and equitable electoral process. Its commitment to protecting citizens' rights, including prohibiting the use of hate speech and discrimination, has been evident and unwavering in every case. The panel has maintained a clear stance on upholding democratic values by enforcing compliance with electoral laws and standards.

## **SUPREME COURT VERDICTS AA.NR.31/2025 AND AA.NR.33/2025**

Following the decisions from PZAP Anr. 235/2025 and Anr. 264/2025, the sentenced subject filed an appeal with the Supreme Court. The appeal filed by the political subject Koalicioni për Familje, was accepted as grounded, and the decision of the Panel for Electoral Complaints and Petitions (PZAP) Anr. 235/2025, dated 30.01.2025, was amended. The decision now reads as follows: The appeal filed by the non-governmental organization CEL Kosova and Dylberizim, based in Prishtina (Anr. 235/2025, dated 28.01.2025), is rejected as ungrounded.

Against the Anr. 235/2025 decision, the political subject, Koalicioni për Familje, filed an appeal to the Supreme Court within the legally allowed time frame, contesting the legality of the decision. They proposed that the Supreme Court annul the imposed fine on the Koalicioni për Familje and recognize the coalition's statements as protected political expressions under Article 10 of the European Convention on Human Rights (ECHR), reaffirming the importance of freedom of speech in promoting democratic debate.

In response to the appeal filed by the political subject Koalicioni për Familje, PZAP contested the claims and proposals of the appeal, recommending that the appeal be rejected as unfounded and that the decision of PZAP Anr. 235/2025, dated 30.01.2025, be upheld.

The Supreme Court of Kosovo assessed the legality of the contested decision, considering the claims in the appeal, the response to the appeal, and the case file. After review, the Court concluded that the appeal is founded.<sup>[14]</sup> The Supreme Court, after reviewing the case materials, concluded that the decision of PZAP had incorrectly applied the law.

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14. Supreme Court of Kosovo, 2025. AA.nr.31/2025

The Supreme Court of Kosovo, in its assessment, found that the decision of PZAP was incorrect in applying the legal provisions. The Court argued that the statements made by candidates from Koalicioni për Familje, including a Facebook post, did not incite violence or hatred towards others, and they did not violate the Code of Conduct for Political Subjects, their Supporters, or Candidates.

The Supreme Court emphasized that these statements, though controversial, were part of the campaign's political program and did not contain language that would incite violence or hatred towards any individual or community. These statements were about the political stance regarding legislative initiatives, rather than a direct call for harmful actions against any group.

The Court also clarified that these statements did not constitute hate speech as defined by international standards, including those of the United Nations (UN), and that they did not violate the legal provisions regarding hate speech or incitement to violence.

The Court also referred to the international context and definitions of hate speech, including those outlined by the UN and the Council of Europe. According to the UN, hate speech is defined as communication that attacks or uses derogatory language against individuals or groups based on their identity, such as race, religion, or gender. However, the Supreme Court found that the statements in question did not meet this threshold.

Similarly, the Supreme Court of Kosovo addressed the appeal of the political subject Koalicioni për Familje, based in Prishtina, in relation to the decision issued by the Panel for Election Complaints and Appeals (PZAP) Anr. 264/2025, dated 1 February 2025. During the session held on 5 February 2025, the Court accepted the appeal of the political subject Koalicioni për Familje as founded and amended the PZAP's decision accordingly.[15]

The reasoning in this verdict mirrors the approach taken in previous decisions of the Supreme Court, further reinforcing the legal precedent established in prior rulings. Specifically, the Court emphasized the importance of ensuring consistency in the application of electoral and constitutional laws, thus reinforcing the position taken in the earlier case AA.nr.31/2025. The Court's decision in this case highlights its continued stance on the matter and its insistence on a strict interpretation of the legal frameworks governing the issues at hand.



## CONFLICT OF ECTHR JURISPRUDENCE AND THE KOSOVO SUPREME COURT VERDICTS

The *Handyside v. United Kingdom* (1976) case from the European Court of Human Rights (ECtHR) established that while freedom of expression is a fundamental right, it is not absolute. Restrictions may be justified, particularly in the interests of protecting morals or preventing harm.<sup>[16]</sup> However, such restrictions must be “necessary in a democratic society,” and national authorities are granted a margin of appreciation to decide on these matters.

In addition to *Handyside v. United Kingdom* (1976), the European Court of Human Rights (ECtHR) jurisprudence in cases like *Erbakan v. Turkey* (2006), *Vejdeland and Others v. Sweden* (2012), and *Lilliendahl v. Iceland* (2020) further clarify the limits of freedom of expression, especially in relation to speech that targets or stigmatizes marginalized groups. These cases provide valuable insights that the Kosovo Supreme Court did not adequately consider in its rulings.

In *Erbakan v. Turkey* (2006), the ECtHR clarified that freedom of expression is not an absolute right, particularly when speech threatens democratic institutions or incites violence. The Court upheld Turkey's decision to restrict political speech in order to safeguard public order and democratic values.<sup>[17]</sup> In contrast, the Kosovo Supreme Court's decisions overlooked whether the balance between freedom of expression and these democratic principles was adequately addressed, thus failing to assess the potential harm of unchecked speech in the political sphere.

*Vejdeland and Others v. Sweden* (2012) further emphasized that speech which stigmatizes, degrades, or targets marginalized groups, such as homophobic speech, may be lawfully restricted. The Court underscored that the state has an obligation to protect individuals from hate speech that threatens their dignity and public safety <sup>[18]</sup>. The Kosovo Supreme Court, however, neglected to consider this principle when addressing complaints related to political speech and actions directed at minority communities, including the LGBTI+ group. This omission reflects a failure to protect marginalized individuals from harmful rhetoric, an obligation under international human rights law.

Similarly, in *Lilliendahl v. Iceland* (2020), the ECtHR reaffirmed that homophobic hate speech does not fall within the scope of protected speech under Article 10 of the European Convention on Human Rights <sup>[19]</sup>. The Court emphasized the state's duty to protect individuals from discriminatory speech while still respecting free speech rights.

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16. European Court of Human Rights, *Handyside v. United Kingdom*, Application No. 5493/72, Judgment of 7 December 1976.

17. *Erbakan v. Turkey* (2006) European Court of Human Rights, *Erbakan v. Turkey*, Application No. 59405/00, Judgment of 6 July 2006.

18. *Vejdeland and Others v. Sweden* (2012) European Court of Human Rights, *Vejdeland and Others v. Sweden*, Application No. 1813/07, Judgment of 9 February 2012.

19. *Lilliendahl v. Iceland* (2020) European Court of Human Rights, *Lilliendahl v. Iceland*, Application No. 22697/16, Judgment of 4 June 2020.

By not incorporating this perspective, the Kosovo Supreme Court's rulings ignored the necessity of shielding vulnerable groups from hate speech, overlooking international legal standards that require such protection.

In light of these ECtHR cases, the Kosovo Supreme Court's decisions appear inconsistent with established European jurisprudence. The failure to take into account the necessity of restricting hate speech and political speech that degrades marginalized groups, as articulated in *Vejdeland*, *Lilliendahl*, and *Erbakan*, demonstrates that the Court's interpretation of freedom of expression was overly broad and did not align with international human rights standards. This oversight not only weakens the protection of vulnerable groups but also sets a dangerous precedent for disregarding established European legal principles in favor of unchecked political rhetoric.

## CONCLUSIONS

The general elections in Kosovo marked a pivotal moment where the anti-gender agenda was openly displayed by a political party, which unapologetically made it the cornerstone of its platform. This rhetoric not only undermined the principles of equality and human dignity but also sought to normalize harmful discourse against marginalized communities, particularly the LGBTI+ population. The role of the Panel for Complaints and Appeals (PZAP) in these elections, however, demonstrated the potential for effective decision-making, as it provided a crucial check against discriminatory actions and rhetoric. PZAP's rulings were instrumental in safeguarding democratic values, upholding the rights of marginalized groups, and maintaining public order during a time of heightened political tension.

In stark contrast, the Kosovo Supreme Court's three verdicts on the appeals arising from these elections failed to meet the same standard. The Court's failure to recognize and address the implications of hate speech—particularly in the context of political rhetoric that targets vulnerable groups—was a serious oversight. Moreover, the Court's judgments did not adequately assess whether the expressions in question amounted to hate speech, a key element in ensuring the protection of human dignity and the promotion of democratic values. This omission highlights a fundamental gap in the Court's understanding and application of international human rights law, especially in relation to its obligations under the European Convention on Human Rights (ECHR) and the relevant case law of the European Court of Human Rights (ECtHR). By neglecting to incorporate ECtHR jurisprudence, which emphasizes the need for balancing freedom of expression with the protection of vulnerable groups from hate speech, the Supreme Court's decisions fell short of aligning with established international standards.

Ultimately, the Supreme Court's failure to uphold human rights in these rulings sets a dangerous precedent that undermines the protection of marginalized communities and weakens the legal safeguards against discrimination and hate speech. By ignoring the lessons from key ECtHR cases, such as *Vejdeland and Others v. Sweden* (2012) and *Lilliendahl v. Iceland* (2020), the Court missed an opportunity to reaffirm Kosovo's commitment to protecting human rights and ensuring that its legal system remains in line with European standards. This failure has significant implications, not only for the LGBTI+ community but for the broader fabric of human rights protections in Kosovo.

