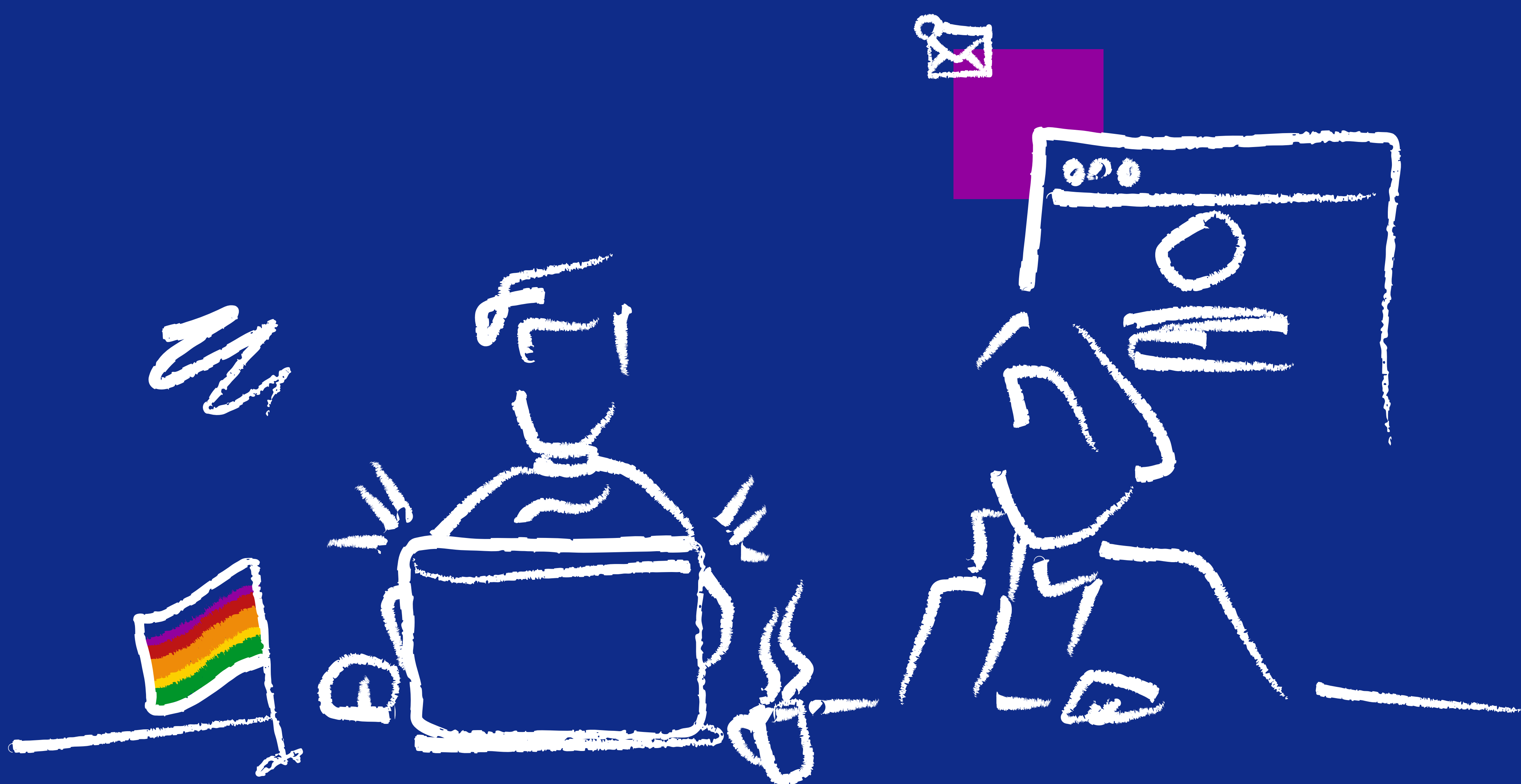


Workplace Equality for LGBTI+ Individuals in Kosovo





Centre For Equality And Liberty Of The LGBT Communities In Kosova (CEL)

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This report is supported by the Swedish International Development Agency (Sida).
The opinions expressed in this publication do not necessarily reflect the views of Sida.

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Introduction

Experiences of discrimination and harassment in the workplace have a direct impact on employees' mental health and well-being, as well as their ability to contribute sustainably and productively to the professional environment. At the same time, the consequences of such discrimination also result in higher costs for employers and a loss of the overall potential of the workforce.

In Kosovo, individuals from LGBTI+ communities continue to face structural and societal barriers that undermine their right to equal employment. Discrimination in access to education directly affects their ability to enter the labor market. Furthermore, discrimination persists throughout the entire employment cycle, from job interviews, to workplace relations, treatment by colleagues and management, and even to subtle or direct exclusion from the workplace. In extreme cases, this is accompanied by physical violence, sexual harassment, and serious threats to personal safety.

Discrimination often stems from non-conformity with heteronormative norms and traditional gender expectations. Women who are perceived as “masculine” or men who are perceived as “feminine” in appearance or behavior are particularly exposed to harassment and exclusion. This leads many LGBTI+ people to not openly share their identity or orientation in the workplace, operating in conditions of constant uncertainty and psychological stress.

Transgender people face more severe forms of discrimination in the context of our country. Refusal of employment due to appearance during an interview, the lack of the possibility to change identification documents in accordance with gender identity, employers' disagreements about clothing or the use of basic spaces such as toilets, as well as harassment by colleagues are some of the most frequently documented experiences in practice.

CEL Kosovo, through the provision of free legal aid to LGBTI+ persons, has documented and addressed cases that demonstrate serious gaps in the implementation of existing legislation on protection from discrimination in employment and consequently the reluctance of individuals who have experienced discrimination to report these cases. These cases involve both the public and private sectors, and highlight the urgent need for internal institutional reforms, harmonization of laws with international human rights standards, as well as direct support measures for LGBTI+ workers seeking justice.

This legal analysis aims to examine the legal basis that regulates the right to work and the prohibition of discrimination in Kosovo for LGBTI+ persons, including a comparative look at practices from other countries and providing recommendations for concrete improvements in the legal and institutional framework.

The Constitution and laws

The Constitution of the Republic of Kosovo guarantees equality before the law for all citizens, prohibiting discrimination against any person on the basis of the categories covered, including sexual orientation.¹

Article 49 guarantees the right to employment and free choice of profession.² At the legal level, the Labor Law (no. 03/L-212) prohibits all forms of discrimination in employment relations, including the so-called direct and indirect discrimination in employment, selection, working conditions, dismissals, etc.³ Similarly, public sector legislation obliges the announcement of equal and open competitions for all candidates, without any kind of discrimination (Article 8).

The legal framework also includes the **Law on Protection from Discrimination** (No. 05/L-021, 2015) and the **Law on Gender Equality** (No. 05/L-020, 2015). The Law on Protection from Discrimination requires the implementation of the principle of equal treatment in all areas of life, including employment, and expressly mentions sexual orientation as a protected criterion.⁴ With the amendments of 2015, this law also extends to gender identity, making Kosovo, as well as the countries of the region, more inclusive in protecting the LGBTI+ community. The Law on Gender Equality provides for special measures to protect persons with gender minority characteristics, prohibiting discrimination against women and transgender persons.⁵ Furthermore, the provisions of the Law on Protection from Discrimination are directly applicable to relations between employees and employers.⁶

Enforcement mechanisms include judicial and administrative institutions that handle complaints of discrimination. Since the 1990s, the Ombudsman has been in place as a rights oversight body, which has also dealt with LGBTI+ issues and remains one of the most responsible and cooperative institutions. Other protection actors are civil society organizations (e.g. CEL Kosova and CSGD), as well as some free legal services. In practice, subjects can sue in court or in the Basic Court directly for discrimination (a possible case under the Anti-Discrimination Law), and in many cases registration as a regular worker is required to benefit from legal protection.

The mere existence of progressive legislation is not sufficient to prevent discrimination. Even when legislation is in place, employees often lack full access to legal instruments for protection due to high financial costs or lengthy and complex legal procedures. This is particularly true in light of the challenges in implementing the Law on Protection from Discrimination (LPD), which have stemmed from various factors, ranging from the inaccurate formulation of legal norms, the lack of harmonization with other laws, the insufficient human and financial resources of the institutions responsible for enforcement, to the lack of adequate knowledge in the field of anti-discrimination.

¹ Kuvendi i Republikës së Kosovës (2008). Kushtetuta e Republikës së Kosovës. [online] Në dispozicion tek: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>.

² Kuvendi i Republikës së Kosovës (2008). Kushtetuta e Republikës së Kosovës, neni 49. [online] Në dispozicion tek: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>.

³ Kuvendi i Republikës së Kosovës (2010). Ligji nr. 03/L-212 për Punën. [online] Në dispozicion tek: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2735>.

⁴ OSBE (2007). Zbatimi i Ligjit kundër Diskriminimit: Sfidë për Kosovën. Qershor. [online] OSCE. Në dispozicion tek: <https://www.osce.org/files/f/documents/4/d/25855.pdf>.

⁵ Kuvendi i Republikës së Kosovës (2015). Ligji nr.05/L-020 për Barazi Gjinore. [online] Gazeta Zyrtare e Republikës së Kosovës. Në dispozicion tek: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10923>.

⁶ Kuvendi i Republikës së Kosovës (2010). Ligji nr. 03/L-212 për Punën. [online] Në dispozicion tek: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2735>.

In Kosovo, many employees from the LGBTI+ community hesitate to file formal complaints of discrimination due to fear of losing their job and a lack of trust in the effectiveness and protection offered by the existing complaint mechanisms.

There are many instances where individuals, groups, or specific communities may experience discrimination but do not initiate cases in accordance with Articles 12 and 13 of the Law on Protection from Discrimination (LPD), due to a lack of sufficient knowledge about the law and other reasons previously mentioned.

Relevant International Instruments

Kosovo aspires to integrate towards international human rights standards. **The European Convention on Human Rights (ECHR)** and the jurisprudence of the European Court (e.g. decisions such as Karner vs. Austria) protect equality under Article 14, this article of the Convention guarantees protection from discrimination in the enjoyment of other rights set out therein. This article, in combination with the case law of the European Court of Human Rights (ECHR), has created an important standard for the protection of persons from discrimination on grounds of sexual orientation or gender identity. which many states (including Kosovo) see as a reference for the principles of equality. Also, according to international conventions (ILO) it requires the principle of impartiality in employment, where discrimination on the basis of personal characteristics is considered unacceptable.⁷ Declarations of the International Labour Organization today explicitly include the principles of inclusion of LGBTI persons in work.

As part of the efforts to align with the European Acquis Communautaire (Kosovo is not a member state), EU directives are a model. For example, Directive 2000/78/EC provides for an employment equality framework that prohibits direct or indirect discrimination in employment on the grounds of sexual orientation. This directive applies in all EU member states (in both the public and private sectors) and requires states to provide employees with effective legal remedies, as well as protection from punishment following complaints of discrimination.⁸ Furthermore, it is an international norm that, within the framework of UN treaties and conventions (e.g. the Covenant on Economic, Social and Cultural Rights), states must eliminate all discrimination in the field of employment in practice.

The Council of Europe has also encouraged the adoption of a proactive approach towards LGBTI+ communities. For example, the “Council of Europe Recommendation (2010)⁵” emphasizes the need for comprehensive policies for the protection of LGBTI+ persons from discrimination.⁹ United Nations standards, documents of the Organization for Security and Co-operation in Europe (OSCE) and others also encourage countries to adopt measures for the implementation of LGBTI+ rights in the labour market. In this context, Kosovo is generally considered to be inclined towards respecting these standards, given that its Constitution explicitly includes sexual orientation¹⁰ and international institutions expect harmonization with EU principles.¹¹

⁷ International Labour Organization (ILO), 1958. Convention concerning Discrimination in Respect of Employment and Occupation (No. 111). [online] Available at: [wcms_114189 \(1\).pdf](#).

g Komisioni Evropian (2000). Direktiva për Barazi në Punësim 2000/78/EC. [online] Employment, Social Affairs & Inclusion – European Commission. Në dispozicion tek: https://employment-social-affairs.ec.europa.eu/policies-and-activities/rights-work/tackling-discrimination-work/legislation-employment-equality-directive-200078ec_en.

g Këshilli i Evropës (2010). Rekomandimi CM/Rec(2010)5 i Komitetit të Ministrave drejtuar shteteve anëtare mbi masat për të luftuar diskriminimin në bazë të orientimit seksual ose identitetit gjinor. [online] Në dispozicion tek: [https://search.coe.int/cm/#\[%22CoEIdentifier%22:\[%2209000016805cf40a%22\],%22sort%22:\[%22CoEValidationDate%20Descending%22\]\]](https://search.coe.int/cm/#[%22CoEIdentifier%22:[%2209000016805cf40a%22],%22sort%22:[%22CoEValidationDate%20Descending%22]]).

¹⁰ Kuvendi i Republikës së Kosovës (2008). Kushtetuta e Republikës së Kosovës. [online] Në dispozicion tek: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>.

¹¹ Komisioni Evropian (2000). Direktiva për Barazi në Punësim 2000/78/EC. [online] Employment, Social Affairs & Inclusion – European Commission. Në dispozicion tek: https://employment-social-affairs.ec.europa.eu/policies-and-activities/rights-work/tackling-discrimination-work/legislation-employment-equality-directive-200078ec_en.

Practice and Jurisprudence in Kosovo

Although Kosovo's legal framework formally prohibits discrimination in employment, the concrete content of legal practice and relevant court rulings remains limited, with most decisions not widely published or accessible to the public. While both the Constitution and applicable legislation are designed to offer protection for LGBTI+ communities, reports from the ground indicate that individuals from these communities frequently refrain from reporting discriminatory experiences, largely due to the fear of social stigma and exclusion.¹² An analysis conducted by the OSCE and local organizations highlights that individuals who believe they have been subjected to sexual orientation-based discrimination at work rarely report these incidents. This is often because they are afraid that their sexual orientation might be involuntarily disclosed or that their complaint will not be taken seriously by institutions. In the absence of publicly available court decisions, there are no known cases in which an LGBTI+ employee has successfully sued for workplace discrimination. The overall lack of official statistics and publicly documented cases related to this phenomenon further reinforces the perception that, in practice, many of the legal protections promised by Kosovo's laws remain unfulfilled due to gaps in enforcement and visibility.

Even when cases of discrimination are reported, they are usually handled individually and do not lead to documented judicial precedents. Media outlets and NGOs have identified examples of discrimination against LGBTI+ individuals, such as exclusion from job interviews once their sexual orientation is revealed, but these cases rarely proceed to court. This is often due to victims' hesitation to report incidents, driven by fear of stigma or lack of trust in institutions. As a result, the absence of publicly accessible court rulings makes it difficult to assess the practical enforcement of the law, creating a gap between the legal protections in place and the lived reality within the workplace.

¹² OSBE (2007). Zbatimi i Ligjit kundër Diskriminimit: Sfidë për Kosovën. Qershor. [online] OSCE. Në dispozicion tek: <https://www.osce.org/files/f/documents/4/d/25855.pdf>.

Comparisons with International Practices

In other countries in the region and the EU, legal protections for LGBTI+ communities in employment are often more advanced. For example, Kosovo’s neighbor North Macedonia has enacted an anti-discrimination law that explicitly includes sexual orientation and gender identity as protected grounds. The Macedonian Minister of Labor emphasizes that their law is founded on the principle that “all citizens are equal and everyone has the right to define how they feel.”¹³ Another regional example is Croatia, which, guided by EU directives, has implemented laws that also encompass sexual orientation in employment protections.

In the European Union (for example, **Germany**, **France**, and **Sweden**), discrimination in employment based on sexual orientation and gender identity is prohibited by law, and advanced enforcement mechanisms exist: equality agencies, public quotas for minorities, voluntary diversity codes in large companies, and more. A recent assessment of LGBTI rights (Rainbow Europe Map) ranks Kosovo behind many EU countries but notes gradual improvement thanks to legal progress.¹⁴ On the other hand, some EU states still report similar challenges.

In general, effective models combine clear legal requirements (including gender orientation and identity in the list of discrimination), their rigorous implementation and awareness-raising campaigns in the workplace and among the public. For example, the European Directive 2000/78 provides not only for laws, but also for training for employees and punitive mechanisms for employers who violate the rules. In the European Union, protection against discrimination in employment on the grounds of sexual orientation and gender identity is guaranteed by EU directives, in particular the Employment Equality Directive (2000/78/EC). Member States are obliged to harmonize national legislation with this directive, creating effective mechanisms to address violations. For example, in Germany, the Equal Treatment Act clearly prohibits discrimination and creates a strong framework for complaints and compensation. Officials and institutions such as the Federal Anti-Discrimination Agency provide legal aid and guidance to victims of discrimination.

France and Sweden also have dedicated agencies for the protection of equality and fair treatment. In France, the “Autorité de Défenseur des Droits” plays a central role in handling discrimination cases and promoting equal rights, while in Sweden the Equality Ombudsman operates with investigative and supervisory powers over both the public and private sectors. These mechanisms are important not only for ensuring justice but also for raising awareness and ethical standards in the workplace. This institutional approach, established in most EU countries, provides a functional model that can serve as a reference point for countries that have yet to develop a comprehensive institutional framework for the effective protection of LGBTI+ rights in employment.

¹³ MPPS (2021). Ligji për parandalimin dhe mbrojtjen nga diskriminimi. Disponueshëm në: <https://www.mtsp.gov.mk/>. Dhe https://www.mtsp.gov.mk/ballina-ns_article-shahpaska-ligji-per-parandalimin-dhe-mbrojtjen-nga-diskriminimi-ne-baza-diskriminuese-perfshin-edhe.nsp?#:~:text=%E2%80%9CLigji%20p%C3%ABr%20parandalimin%20dhe%20mbrojtjen,jan%C3%AB%20diversitetet%E2%80%9D%2C%20t%20heksoi%20ministrja%20Shahpaska

¹⁴ ILGA-Europe (2024) Rainbow Europe Map and Index 2024. [Online] Disponueshëm në: <https://rainbowmap.ilga-europe.org/>.

Forms of Discrimination in the Workplace

Discrimination is not limited to direct acts of unfair treatment, but appears in a wide range of forms that can be subtle, harder to detect, and equally damaging. Whether in everyday interactions or structural systems, these forms of discrimination can deeply affect a person's dignity, mental health, and access to equal opportunities. In the context of human rights and both domestic and international standards, it's essential to understand this complexity in order to ensure real and effective protection. This section explores the most common forms of discrimination in the workplace and beyond, such as direct and indirect discrimination, harassment, psychological abuse or mobbing, and retaliation against those who report or speak out.

According to the Law on Protection from Discrimination in Kosovo, direct discrimination occurs when a person is treated less favorably than another in a comparable situation, based on protected characteristics such as gender, sexual orientation, gender identity, age, race, and others. Meanwhile, indirect discrimination refers to the existence of a provision, criterion, or seemingly neutral practice that places certain individuals at a particular disadvantage compared to others.¹⁵

This concept has also been reinforced in the case law of the European Court of Human Rights, which in the case of *D.H. and Others v. the Czech Republic* (2007) emphasized the importance of examining the disproportionate impact of seemingly neutral practices on certain groups.¹⁶

Harassment is a form of discrimination that occurs when unwanted behavior related to a protected characteristic aims to or results in undermining a person's dignity and creates an intimidating, hostile, humiliating, or offensive environment. The Law on Gender Equality in Kosovo (No. 05/L-020) clearly states that sexual harassment or any other form of harassment constitutes a violation of equality principles and is strictly prohibited in the workplace.¹⁷

Moral harassment or Mobbing constitutes a particular form of workplace harassment, characterized by systematic, repeated, and intentional actions by one or more individuals against an employee. These actions may include social isolation, belittling, spreading rumors, damaging professional reputation, and undermining personal integrity. The effects are extremely harmful and often lead to serious consequences for the victim's mental health and well-being.

In the absence of a specific law on mobbing in Kosovo, this phenomenon remains under the general protection of anti-discrimination and labor laws. However, international practices offer good regulatory models. For instance, ILO Convention No. 190 (International Labour Organization) on the Elimination of Violence and Harassment in the World of Work (2019), which Kosovo has not yet ratified, but which serves as an international standard, clearly states that harassment and violence in the workplace constitute human rights violations and should be addressed through clear policies and concrete preventive and punitive measures.¹⁸

¹⁵ Republic of Kosovo, 2015. Law No. 05/L-021 on the Protection from Discrimination. Official Gazette of the Republic of Kosovo, No. 16 / 26 June 2015, Article 3.

¹⁶ European Court of Human Rights (ECtHR), 2007. *D.H. and Others v. the Czech Republic*, Application no. 57325/00, Judgment of 13 November 2007. Strasbourg: Council of Europe.

¹⁷ Kuvendi i Republikës së Kosovës (2015). Ligji nr.05/L 020 për Barazi Gjinore. [online] Gazeta Zyrtare e Republikës së Kosovës. Në dispozicion tek: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10923>.

¹⁸ International Labour Organization (2019) Convention No. 190 concerning the Elimination of Violence and Harassment in the World of Work. Geneva: ILO.

Victimization occurs when a person faces negative treatment as a result of complaining about discrimination or as a witness in such a process. This is a common mechanism that aims to intimidate individuals from reporting injustices, creating an environment where silence is experienced as the only way to “survive”. According to Article 10 of the Law on Protection from Discrimination, any form of retaliation against individuals who have exercised the right to protection from discrimination is prohibited.

This form of silence has been observed particularly in the most vulnerable communities, such as LGBTI+ communities, where due to fear of stigmatization, lack of trust in institutions and social pressure, many cases of discrimination are not reported and never end up in court, making the reality of victims invisible in statistics but real and ongoing in everyday life.¹⁹

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ILGA-Europe (2024) Rainbow Europe Map 2024. Available at: <https://rainbowmap.ilga-europe.org/>.

Challenges and Gaps in Law Enforcement

In Kosovo, the enforcement of anti-discrimination laws protecting the LGBTI+ community remains inadequate due to several key reasons. First, social **stigma and marginalization**: studies show that many LGBTI+ employees fear openly disclosing their sexual orientation because they face strong prejudices. This fear hinders them from pursuing legal remedies. Second, **lack of awareness and institutional capacity**: many employers and public officials are either unaware of or fail to fulfill their obligation to implement anti-discrimination laws related to sexual orientation. Consequently, cases may not be taken seriously by institutions or prosecutors. Third, **legal and practical gaps**: despite the formal inclusion of sexual orientation in the law, there is no clear specification of sanctions for employers who discriminate against LGBTI+ individuals. Additionally, the Labor Law does not explicitly mention LGBTI+ communities, gender identity, or sexual orientation, leaving a lack of concrete guidance on how to address violations in this area. Cases of harassment or violence against LGBTI+ employees in the workplace, though rarely reported, are not specifically addressed by state mechanisms. Fourth, institutional underrepresentation: Kosovo's law mandates proportional representation of ethnic communities in public administration but does not provide similar measures for the LGBTI+ community. This results in a lack of positive role models within public employers and contributes to increased discrimination. Overall, these challenges create an environment where, despite progressive legal principles, effective practical protection remains weak.²⁰

²⁰ OSBE (2007). Zbatimi i Ligjit kundër Diskriminimit: Sfidë për Kosovën. Qershor. [online] OSCE. Në dispozicion tek: <https://www.osce.org/files/f/documents/4/d/25855.pdf>.

Recommendations for Improvement

Based on the legal analysis and review of national and international practices, it is evident that ensuring effective protection against workplace discrimination for LGBTI+ individuals requires an integrated, comprehensive, and inter-institutional approach. The implementation of equality standards cannot be achieved without sustained interventions in the legal framework, enforcing institutions, and workplace social culture.

First, it is essential that the legal framework clearly reflects the protection of LGBTI+ persons:

- Sexual **orientation and gender identity** must be explicitly included as protected grounds in the **Labor Law** and relevant subordinate acts;
- A **Code of Ethics or protocol** for employers should be drafted and adopted, applicable in both public and private sectors, to guarantee an inclusive and safe work environment.

Existing legislation, including the Law on Protection from Discrimination, needs to be amended and enriched with clear procedural provisions regulating how rights are realized in practice. This includes:

- Adding a **dedicated chapter** on administrative and judicial procedures, which should cover: effective legal remedies for victims;
 - temporary and urgent measures;
 - jurisdiction and burden of proof;
 - the role of third parties in the procedure;
 - deadlines for fulfilling obligations;
 - regular and extraordinary legal remedies for challenging decisions.

Effective enforcement of rights also requires **strengthening institutional mechanisms**:

- The mandate of the **Gender Equality Agency** should be explicitly expanded to include protection from discrimination based on sexual orientation and gender identity;
- The **Labor Inspectorate** must be equipped with specific guidelines and organize regular trainings for staff on discrimination based on sexual orientation and gender identity;
- Judges, prosecutors, and lawyers should receive training on the legal and social aspects of LGBTI+ discrimination to ensure impartiality and professional competence.

Equally important is **public awareness and education**:

- Public institutions should lead by example through internal trainings and awareness campaigns;
- **Education on workplace rights** should be promoted in cooperation with civil society organizations and trade unions;
- The creation of **confidential reporting mechanisms**, such as online forms or help lines, would encourage reporting of cases while ensuring victim protection.

Furthermore, it is necessary to establish **clear monitoring and sanctioning mechanisms for violations:**

- Institutions such as the Ombudsperson and Labor Inspectorate should systematically collect and analyze data on workplace discrimination cases;
- **Concrete sanctions** must be foreseen against employers or officials who fail to act in accordance with the law.

Finally, **international cooperation and the integration of good European practices are essential:**

- **The adoption of affirmative models from EU countries** should be pursued, including protocols for protection and inclusion in the workplace;
- These steps would bring Kosovo closer to the standards of the European Convention on Human Rights and help fulfill the aspirations for European integration.

This coordinated approach not only ensures proper implementation of the law but also contributes to creating a labor market that reflects dignity, inclusion, and equality for all citizens, without discrimination.

