

# TRACKING LEGAL PROGRESS FOR LGBTI+ RIGHTS IN KOSOVO:

Developments,  
Obstacles, and  
the Way Ahead





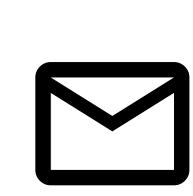
# CENTER FOR EQUALITY AND LIBERTY OF LGBT COMMUNITIES IN KOSOVO (CEL)

AUTHOR : KRISTIAN RRASAJ  
DECEMBER 2025, PRISHTINË

COPYRIGHT © CENTRE FOR EQUALITY AND LIBERTY TË GJITHA TË DREJTAT E REZERVUARA. ASNJË PJESË E KËTIJ PUBLIKIMI NUK MUND TË RIPRODHOHET, TË RUHET OSE TË TRANSMETOHET NË ÇFARËDO FORME ELEKTRONIKE, MEKANIKE FOTOKOPJUESE, INCIZUESE APO NDRYSHE, PA LEJEN PARAPRAKE TË CEL KOSOVA.



[www.cel-ks.org](http://www.cel-ks.org)



[info@cel-ks.org](mailto:info@cel-ks.org)



+383 49 701 499

## Disclaimer clause

This publication was funded by SIDA – the Swedish International Development Cooperation Agency and the Embassy of Sweden in Kosovo. The content of the publication is the sole responsibility of CEL Kosovo and does not necessarily reflect the views of the partners and donors.

# Table of contents

**1. Executive Summary**

**2. Introduction**

**3. Constitutional and International Law Framework**

CEDAW, ICCPR, ICESCR, ECHR, Yogyakarta Principles

**4. National Legal Framework: Progress and Gaps**

4.1 Anti-Discrimination Law: Progress and Persistent Gaps

4.2 Law on Civil Status

4.3 Family Law

4.4 Criminal Code Amendments (2024–2025 process)

4.5 Law on Prevention and Protection from Domestic Violence, Violence Against Women, and Gender-Based Violence

4.6 Health Sector Legal Gaps

**5. Institutional and Political Dynamics: The Gap Between Technical Progress and Legal Implementation**

**6. Institutional Performance (2024–2025)**

**7. Western Balkans and EU Practices on Legal Gender Recognition and Family Law**

**8. Recommendations**



# 1. Executive Summary

The Republic of Kosovo, since its declaration of independence in 2008, has sought to establish itself as a modern, democratic state committed to human rights. This commitment is formally reflected in its Constitution, which is often lauded as one of the most progressive in the region. Crucially, the fundamental rights chapter explicitly includes sexual orientation as a protected ground against discrimination, setting a strong legal standard.

However, the practical realization of these rights for the LGBTI+ community has been a journey marked by significant challenges and periods of stagnation. A substantial gap persists between the law on paper and the reality on the ground. While legislative frameworks exist to prohibit discrimination, the translation of these protections into binding, actionable laws particularly regarding family rights and their effective enforcement have been repeatedly thwarted by political resistance and deep-seated social conservatism.

This analysis provides an in-depth assessment of the legal, institutional, and policy landscape affecting LGBTI+ persons in Kosovo. It evaluates recent legal reforms, ongoing legislative initiatives, institutional performance, and practical barriers faced by LGBTI+ individuals. It draws on CEL Kosova's casework, participation in national working groups, monitoring of hate speech trends, and direct cooperation with the Ombudsperson, the Ministry of Justice, and other stakeholders.

Between 2023 and 2025, Kosovo made several positive steps toward enhancing human rights protections, including expanding consultation processes with civil society, initiating amendments to the Criminal Code, and reviewing Standard Operating Procedures for addressing gender-based violence. However, progress remains slow and uneven. Key legislation most notably the Draft Law on Civil Status has not been adopted, leaving trans individuals without an accessible administrative procedure for changing name and gender marker. Enforcement of the Law on Protection from Discrimination continues to be weak, with low reporting rates and limited institutional follow-up. Health-related protections for trans and intersex persons remain largely absent from the legal framework.

Institutional performance varies significantly. While the Ombudsperson remains a reliable ally in addressing discrimination, police and prosecution services still demonstrate insufficient understanding of SOGIESC-sensitive procedures. LGBTI+ survivors of gender-based violence face unique vulnerabilities, yet current SOPs and protection services, including shelters, do not adequately account for their needs. CEL's monitoring indicates that hate speech targeting LGBTI+ persons persists at high levels, especially online, further limiting trust in institutions.

The report concludes that 2025 represents a critical moment for advancing LGBTI+ rights. Priorities include adopting the Draft Law on Civil Status, improving enforcement of the anti-discrimination framework, developing trans-specific healthcare protocols, ensuring protection services for LGBTI+ survivors of violence, and strengthening institutional accountability. CEL Kosova will continue to drive these reforms through legal monitoring, advocacy, capacity building, and direct support to community members.



## 2. Introduction

LGBTI+ rights in Kosovo are situated at the intersection of constitutional guarantees, international human rights commitments, and evolving national legislation. Over the past decade, Kosovo has positioned itself as regionally progressive by adopting comprehensive anti-discrimination protections and committing to European human-rights standards. Yet the lived experiences of LGBTI+ individuals continue to reveal significant disparities between legal norms and institutional practice. Ensuring that rights are not merely recognized on paper but effectively implemented in practice remains one of the central human-rights challenges of the country.

This report, *Tracking Legal Progress for LGBTI+ Rights in Kosovo: A Comprehensive Analysis for 2025*, seeks to provide a structured and evidence-based analysis of the legal and institutional environment shaping the rights of LGBTI+ people. As one of the primary organizations working on LGBTI+ justice in Kosovo, CEL Kosova and partner organizations play a role in monitoring developments, documenting violations, and advocating for systemic change. CEL's experience ranging from providing direct legal aid, handling cases of violence and discrimination, monitoring online hate speech, to participating in national legislative working groups offers crucial grassroots insight into how laws are applied and where institutional gaps persist.

This analysis adopts a multi-layered methodology. It reviews constitutional and international obligations, examines national legislation and ongoing reform processes, and evaluates institutional performance based on CEL's casework and community engagement. It also incorporates comparative perspectives from EU member states and Western Balkan countries to contextualize Kosovo's progress and identify realistic pathways for reform.

The years 2023–2025 have been especially significant. Kosovo has embarked on several important legal initiatives such as revising the Criminal Code and the Standard Operating Procedures for protection from gender-based violence that have direct implications for LGBTI+ rights. At the same time, essential legislation regulating administrative gender recognition and healthcare protections remains stalled. Persistent challenges such as low reporting rates, social stigma, institutional hesitancy, and lack of tailored support services continue to create barriers for LGBTI+ individuals seeking justice and safety.

By mapping these developments, this report aims to equip policymakers, human-rights institutions, civil society actors, and international partners with a clear understanding of the progress made and the reforms still required. Most importantly, it centers the lived realities of LGBTI+ persons in Kosovo as the guiding force for legal and institutional transformation.



### 3. Constitutional and International Law Framework

The legal protection of LGBTI+ persons in Kosovo is grounded in a robust constitutional architecture and a broad range of international human rights instruments that apply directly within the domestic legal order. Together, these frameworks establish strong normative guarantees for equality, dignity, bodily autonomy, and non-discrimination—principles that are essential for advancing LGBTI+ rights.

The Constitution of the Republic of Kosovo provides one of the most progressive human-rights frameworks in the region. Its equality and non-discrimination clauses form the bedrock of legal protection for LGBTI+ persons:

Article 24 (Equality Before the Law) prohibits discrimination on any grounds, including “other personal status,” a broad formulation that encompasses sexual orientation, gender identity, gender expression, and intersex status.<sup>1</sup>

Article 22 gives direct constitutional authority to international human rights instruments, explicitly listing them as directly applicable and superior to domestic laws in cases of conflict.<sup>2</sup>

Article 23 (Human Dignity) establishes dignity as inviolable and protected by the state—a principle that supports legal arguments for administrative gender<sup>3</sup>

<sup>1</sup> Republika e Kosovës, 2008. Kushtetuta e Republikës së Kosovës. Prishtinë: Gazeta Zyrtare e Republikës së Kosovës, Neni 24.

<sup>2</sup> Republika e Kosovës, 2008. Kushtetuta e Republikës së Kosovës. Prishtinë: Gazeta Zyrtare e Republikës së Kosovës, Neni 22.

<sup>3</sup> Republika e Kosovës, 2008. Kushtetuta e Republikës së Kosovës. Prishtinë: Gazeta Zyrtare e Republikës së Kosovës, Neni 23.



## CEDAW, ICCPR, ICESCR, ECHR, Yogyakarta Principles

Kosovo's Constitution makes international treaties directly enforceable, a feature that uniquely strengthens LGBTI+ legal claims. The following instruments are particularly relevant:

- **EUROPEAN CONVENTION ON HUMAN RIGHTS (ECHR)** Directly applicable under Article 22, the ECHR and the case-law of the European Court of Human Rights (ECtHR) form binding standards for Kosovo. Key ECtHR principles relevant to LGBTI+ rights include:

Recognition of gender identity as part of private life (*Goodwin v. UK*; *AP, Garçon and Nicot v. France*)

Prohibition of discrimination based on sexual orientation and gender identity. State obligations to protect individuals from violence motivated by bias. These standards support the argument that Kosovo must adopt an accessible, administrative procedure for gender marker and name change.

The International Covenant on Civil and Political Rights (ICCPR) forms one of the core pillars of Kosovo's human-rights obligations and provides fundamental protections that directly benefit LGBTI+ individuals. Among its key guarantees are the principles of equality before the law, freedom from discrimination, and the right to respect for private life.<sup>4</sup> These rights have been consistently interpreted by the UN Human Rights Committee to encompass sexual orientation and gender identity, with the Committee affirming that the terms "sex" and "other status" under the Covenant extend to LGBTI+ persons. This interpretation places a clear obligation on states, including Kosovo, to ensure that individuals are protected from discrimination, arbitrary interference with their private lives, and violations rooted in prejudice against their sexual orientation or gender identity. The ICCPR therefore provides a strong legal foundation for challenging discriminatory practices and advancing recognition of gender identity within Kosovo's legal system.

Similarly, the International Covenant on Economic, Social and Cultural Rights (ICESCR) plays a central role in shaping Kosovo's responsibilities in the areas of social inclusion and public welfare. The Covenant guarantees the right to the highest attainable standard of health, the right to work, and protection from discrimination in accessing essential public services. These rights are especially relevant in the context of trans and intersex persons, who frequently face systemic barriers to healthcare, employment, and social services. In Kosovo, where no formal regulatory framework exists for gender-affirming healthcare and where intersex individuals remain unprotected from medically unnecessary interventions performed without informed consent, the ICESCR serves as a crucial legal reference. It underscores the state's obligation to establish accessible, non-discriminatory, and evidence-based healthcare services, as well as to ensure equal treatment in employment, education, and social support systems. By grounding advocacy in ICESCR standards, civil society can push for reforms that align Kosovo's health and social policies with international human-rights norms.<sup>5</sup>

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), though focused on the rights of women and girls, has evolved significantly in its interpretation to include the experiences of lesbian, bisexual, and trans women.

<sup>4</sup> United Nations (UN). (1966). *International Covenant on Civil and Political Rights (ICCPR)*. Adopted 16 December 1966, entered into force 23 March 1976.

<sup>5</sup> United Nations (UN). (1966). *International Covenant on Economic, Social and Cultural Rights (ICESCR)*. Adopted 16 December 1966, entered into force 3 January 1976.



The CEDAW Committee has repeatedly emphasized that discrimination and gender-based violence affecting LGBTI women fall within the scope of the Convention.<sup>6</sup> This expanded interpretation is directly relevant for Kosovo, particularly as it continues to revise and implement its Standard Operating Procedures for protection from domestic violence, violence against women, and gender-based violence. Under CEDAW, Kosovo is obligated to take proactive measures to address the specific vulnerabilities and forms of discrimination faced by LGBTI women, including barriers to reporting violence, institutional bias, and lack of access to safe and inclusive protection services. Integrating these standards into national policy and practice not only strengthens the country's compliance with international law but also ensures that gender-based violence frameworks effectively protect all women, including those marginalized on the basis of sexual orientation, gender identity, or gender expression.

<sup>6</sup> United Nations (UN). (1979). *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*. Adopted 18 December 1979, entered into force 3 September 1981.



## 4. National Legal Framework: Progress and Gaps

### 4.1 Anti-Discrimination Law: Progress and Persistent Gaps

Kosovo's Law on Protection from Discrimination (2015) is one of the most comprehensive anti-discrimination frameworks in the Western Balkans and, on paper, provides robust protections for LGBTI+ individuals. The law prohibits discrimination on numerous grounds, including sexual orientation and gender identity, and applies across all areas of public and private life.<sup>7</sup> Despite this strong normative framework, enforcement remains limited, inconsistent, and often ineffective.

CEL Kosova's casework and community engagement demonstrate that LGBTI+ persons rarely report discrimination to the relevant institutions. Low reporting rates are not an indicator of low incidence; rather, they reflect a profound lack of trust in institutional responsiveness. Survivors frequently express doubt that their cases will be taken seriously, investigated with sensitivity, or resolved in a timely and impartial manner. This distrust is reinforced by past experiences of institutional inaction, insufficient understanding of SOGIESC-related issues, and the absence of clear accountability mechanisms for duty-bearers who fail to act.

The challenges in the actions of the LMD are of various aspects, starting from the aspect of the inaccurate formulation of legal norms, the aspect of harmonizing these norms with the norms of the laws, the possible aspect of the actions of human resources and others of the impact on the actions of the law, which is not sufficiently precise. LMD.

There are many cases where individuals, groups or certain communities may be discriminated against, but they do not initiate these cases, in accordance with the law,<sup>8</sup> due to lack of sufficient knowledge about this law, fear of punishment, their stigmatization, or even lack of trust in the mechanisms for protection from discrimination and the justice system. In this context, it has resulted that in the absence of initiating cases on discriminatory grounds, the number of court cases for protection from discrimination is low.

According to Article 20 (2) of the LPD, the burden of proof in cases based on discrimination falls on the defendant, but other laws stipulate that the burden of proof falls on the claimant. This poses challenges in the implementation of the aforementioned article and necessitates the harmonization of other laws with the LPD regarding the burden of proof in disputes based on discrimination. By making it clear that the burden of proof should shift to the defendant, where the authorities must provide exculpatory evidence in cases where there are allegations of discrimination. For this, the courts should follow the practice of the ECHR under Article 53 of the Constitution of the Republic of Kosovo.<sup>9</sup>

<sup>7</sup> Kuvendi i Republikës së Kosovës. (2015). Ligji Nr. 05/L-021 për Mbrojtjen nga Diskriminimi.

<sup>8</sup> Republic of Kosovo (2015) Law No. 05/L-021 on Protection from Discrimination, Articles 12–13. Official Gazette of the Republic of Kosovo, Prishtina.

<sup>9</sup> Republic of Kosovo (2008) Constitution of the Republic of Kosovo, Article 53. Official Gazette of the Republic of Kosovo, Prishtina.



Important gaps remain within the existing legal framework. Although the law includes “gender identity” as a protected ground, it does not explicitly reference “intersex status”, leaving intersex persons without full legal recognition of their specific vulnerabilities. This omission is increasingly out of step with international standards, particularly given the growing global recognition of the need for explicit protection of intersex individuals against discrimination, stigma, and non-consensual medical interventions.

Another structural weakness concerns the absence of secondary legislation, particularly regarding penalty mechanisms and enforcement procedures. Without implementing regulations that operationalize sanctions for discriminatory conduct, the law’s preventive and punitive functions remain largely symbolic. Institutions lack practical tools to investigate violations, impose penalties, and ensure compliance. As a result, discriminatory acts often go unaddressed, contributing to a cycle of invisibility and impunity.

In summary, while Kosovo’s anti-discrimination law is aligned with European standards in its substance, practical barriers combined with notable legal omissions continue to limit its impact for LGBTI+ persons. Strengthening enforcement, restoring community trust, explicitly protecting intersex status, and adopting the necessary secondary legislation all remain essential steps for ensuring that the law functions as an effective safeguard rather than a formal commitment alone.

The Ministry of Justice established a new inter-institutional working group tasked with reviewing the Law on Protection from Discrimination and preparing a comprehensive draft of a new, updated law. CEL Kosova is an active member of this working group.

## 4.2 Law on Civil Status

One of the most significant legal gaps affecting the rights of trans persons in Kosovo remains the absence of an accessible and humane procedure for changing name and gender marker in civil-status documents. Although the Ministry of Internal Affairs finalized the Draft Law on Civil Status in 2023, the law has yet to be adopted by the Assembly. Its continued stagnation has direct and harmful consequences for trans individuals who remain unable to obtain legal recognition of their gender through an administrative process.

In the absence of this law, the current procedure is entirely court-based, requiring individuals to initiate civil proceedings in order to change their name or gender marker. This process is not only slow and financially burdensome but also invasive, unpredictable, and often retraumatizing. Trans persons must provide extensive documentation, undergo unnecessary scrutiny of their private lives, and depend on judges who may lack sensitivity, training, or understanding of gender identity. The result is a legal pathway that is formally available but practically inaccessible to many.

The cases CEL has helped, illustrate the systemic barriers embedded in the court-based procedure. Despite clear international standards emphasizing the right to legal gender recognition, trans individuals are required to navigate a multi-year legal process, facing institutional hesitations, inconsistent interpretations of the law, and procedural delays. This experience widely recognized within the community and by human-rights actors demonstrates that the current system exposes trans individuals to legal uncertainty, emotional distress, and prolonged periods of living with documents that do not reflect their identity. This mismatch has serious implications for access to employment, education, healthcare, and personal safety.

From a human-rights perspective, Kosovo’s failure to establish an administrative procedure places it **out of compliance with European Court of Human Rights (ECtHR) standards**. In cases such as *A.P., Garçon and Nicot v. France*, the ECtHR held that states must provide procedures for legal gender recognition that are



accessible, quick, transparent, and respectful of human dignity.<sup>10</sup> Requirements that create excessive burdens such as medicalized standards, invasive evidentiary demands, or lengthy judicial processes are incompatible with Article 8 of the European Convention on Human Rights.<sup>11</sup> Given that the ECHR is directly applicable under Article 22 of Kosovo's Constitution, Kosovo has a constitutional obligation to align its legal framework with these standards.

The Draft Law on Civil Status would resolve many of these issues by allowing gender-marker and name changes through a simple administrative procedure at municipal civil-status offices. Its adoption is therefore essential not only for the protection of trans persons' rights but also for ensuring Kosovo's compliance with its own constitutional and international obligations. Until this law is passed, trans individuals in Kosovo will continue to face structural barriers to exercising their most fundamental rights.

### 4.3 Family Law

The lack of legal recognition of same-sex relationships constitutes the largest and most discriminatory obstacle in Kosovo's legal framework. The Law on Family, and the proposed Civil Code (which failed to pass the Assembly in 2022), limit marriage to only between a man and a woman. This lack of recognition of same-sex partnerships has serious practical and legal consequences, directly violating the fundamental economic and social rights of these couples.

Despite the constitutional rights of the LGBTI+ persons, the requisite legislation necessary to recognize the community in terms equal to all members of society has not been adopted in the new draft Civil Code. This is because of the failure to vote in favor of same-sex unions by the parliament, thereby reflecting a fundamentally homophobic ideology underlying Kosovo's societal structures. It has also impeded on efforts of the LGBTI+ persons, civil society and the international community to provide the country with genuine forms of democracy. Instead, the discussions surrounding same-sex unions instigated a homophobic campaign in 2022, 2023 and 2024 against individuals of the LGBTI+ community with public persona, political figures and media outlets overtly going against the basic rights of LGBTI+ individuals. In 2024, amid fierce opposition, no serious attempts to pass the Civil Code were made despite calls from different international stakeholder, including Parliamentary Assembly of the Council of Europe in April 2024,<sup>12</sup> and despite the promise of the Prime Minister that the Law will be adopted in May 2024.<sup>13</sup>

This failure in legal recognition creates a reality of structural discrimination, declaring the LGBTI+ community legally invisible with respect to their most intimate relationships. Although the Constitution of Kosovo can be interpreted as allowing for a special law regulating same-sex cohabitation, the political will to materialize this remains weak and obstructed.

<sup>10</sup> *Gjykata Evropiane për të Drejtat e Njeriut (2017) A.P., Garçon dhe Nicot kundër Francës, Kërkesat nr. 79885/12, 52471/13 dhe 52596/13, Aktgjykimi i 6 Prillit 2017.*

<sup>11</sup> *Këshilli i Evropës (1950) Konventa Evropiane për të Drejtat e Njeriut, Neni 8. Romë: Këshilli i Evropës.*

<sup>12</sup> *Asambleja Parlamentare e Këshillit të Evropës (2024), Opinioni nr. 302(2024), 16 Prill 2024.*

<sup>13</sup> *Kosovo 2.0 (2024), We were here and we will always be here.*



The consequences of this lack of recognition extend beyond the basic right to marry; they undermine the safety and well-being of LGBTI+ families. The lack of partnership recognition leaves couples unprotected regarding common property ownership, inheritance, and emergency medical decision-making. Furthermore, the current family law is not inclusive of the reality of rainbow families. With respect to custody and visitation rights, same-sex couples, especially non-biological parents, do not enjoy equal legal protection compared to heterosexual couples. This legal uncertainty can become particularly dangerous in cases of separation or the death of a partner, where the non-biological parent may lose the right to custody of the child, despite the essential parental role played during the child's life.

In conclusion, family law in Kosovo not only fails to establish equality, but actively undermines the legal certainty (or legal security) of the relationships and families of the LGBTI+ community. Until a form of partnership recognition is adopted—be it equal marriage or civil partnership—this community will remain in a secondary legal status, deprived of the fundamental rights associated with family life.

A recent ruling by the European Court of Justice (ECJ) has significant implications for Kosovo's alignment with EU standards on family law and non-discrimination. In this case, the Court held that same-sex marriages legally performed in one EU member state must be recognized throughout the bloc, even in countries whose domestic laws do not permit same-sex marriage. Specifically, the ECJ found that Poland was in violation of EU law by refusing to recognize the marriage of two Polish citizens who had married in Germany, emphasizing that non-recognition constitutes a breach of the principle of free movement and fundamental rights protection.<sup>14</sup>

For Kosovo, this ruling underscores the potential legal and normative expectations associated with European integration. Although Kosovo is not yet an EU member, aligning national legislation with EU standards on non-discrimination, including recognition of same-sex unions, would support the country's broader EU accession agenda. The ruling highlights the growing consensus within European jurisprudence that states must provide effective legal recognition and protection for same-sex couples, a standard that Kosovo may increasingly be expected to adopt in order to harmonize its laws with EU norms and human-rights obligations.

<sup>14</sup> Court of Justice of the European Union, 2025. *Judgment of the Court in Case C-713/23, Wojewoda Mazowiecki*, ECLI:EU:C:2025:917. Luxembourg: CJEU.



## 4.4 Criminal Code Amendments (2024–2025 process)

In 2024–2025, Kosovo undertook a significant revision of its Criminal Code, with a particular focus on strengthening protections against gender-based and SOGIESC-related violence. CEL Kosova actively participated in the draft revision workshops, providing expertise on LGBTI+ issues and contributing recommendations based on casework and monitoring data. This engagement allowed the organization to directly inform the legislative process, ensuring that emerging threats to LGBTI+ individuals are considered in criminal law reform.

One of the key proposals introduced during this process was the inclusion of gender-based cyber violence as a distinct criminal offense. The proposal recognizes the increasing prevalence of online harassment, threats, and hate speech targeting individuals based on gender identity, sexual orientation, or other protected characteristics. This is an important step in updating Kosovo's legal framework to reflect the realities of digital violence, which disproportionately affects LGBTI+ persons and often goes unaddressed under existing statutes.

Efforts to strengthen criminal protection for LGBTI+ persons are constantly in focus, particularly within the framework of the revision process of the Kosovo Criminal Code, which commenced during the 2024–2025 period. Our participation in the drafting workshops for this Code revision was crucial to ensure that protection gaps were addressed. In this context, a key proposal was the introduction of a provision for "gender-based cyber violence." The aim of this amendment is to specifically criminalize forms of assault, harassment, and threats carried out online, which are frequently used to target and intimidate LGBTI+ activists and community members, significantly worsening their public and private security.

Despite this focus on amendments, the core problem lies with the enforcement of existing provisions. The Kosovo Criminal Code already includes hate crime provisions, clearly stipulating that discriminatory motives (including sexual orientation and gender identity) must be considered as aggravating circumstances during sentencing.<sup>15</sup> However, this mechanism remains largely non-functional. In practice, there is a consistent failure on the part of the Police to accurately record incidents as hate crimes, and on the part of prosecutors and judges to apply these provisions in indictments and judicial decisions. Consequently, prejudice-motivated attacks are often treated merely as "minor bodily injury" or "threat," thus undervaluing the discriminatory dimension and sending a signal that hate crime is tolerated.

Addressing this failure requires more than just legal changes; it demands investment in human capacity and the building of professional sensitivity. For this reason, a repeated key demand has been the urgent need for specialized training for prosecutors and judges. These trainings must focus on recognizing hate motives, gathering evidence, and the importance of applying aggravating circumstances to ensure effective justice. Without the full and sensitive application of criminal provisions, the right of LGBTI+ persons to safety and protection from violence remains merely a formal promise.

<sup>15</sup> Court of Justice of the European Union, 2025. *Judgment of the Court in Case C-713/23, Wojewoda Mazowiecki*, ECLI:EU:C:2025:917. Luxembourg: CJEU.



## 4.5 Law on Prevention and Protection from Domestic Violence, Violence Against Women, and Gender-Based Violence

The adoption of a new framework for addressing violence against women and domestic violence has marked progress in victim protection, but this framework remains insufficient and not specialized enough to cover the unique needs of LGBTI+ persons. The most critical gap lies in the area of specialized services. Necessary services, such as safe shelters and specific psychological support centers, are often designed for the heterosexual context and frequently lack the capacity, mandate, or proper cultural sensitivity to house and assist gay men, trans persons, or lesbians affected by domestic violence or hate crimes. This absence leaves the community in a dangerous and highly vulnerable position.

The role of Civil Society Organizations (CSOs), such as CEL, thus becomes vital, as they serve as the primary channel for free legal aid and emergency support. However, relying solely on the civil sector is unsustainable. The need for institutional guidelines is urgent: our organization's work in the working group for drafting the Standard Operating Procedures (SOPs) for the police and prosecution, which would ensure uniform and sensitive handling of hate crime cases, has faced significant delays. This unfinished and protracted process indicates a lack of political and operational will to equip the system with the necessary instruments for the enforcement of the Hate Crimes Law.

To measure the level of deficiencies, Kosovo must be assessed against international standards, which offer a clear roadmap for future actions. The Recommendations of the Council of Europe (CM/Rec(2010)5) require member states to ensure comprehensive protection against discrimination and to secure legal gender recognition based on self-identification, rather than mandatory surgery.<sup>16</sup> Furthermore, the jurisprudence of the European Court of Human Rights (ECtHR), with cases such as *Oliari and Others v. Italy*, has shown that states have a positive obligation to provide a form of legal recognition for same-sex partnerships.<sup>17</sup>

These standards serve as the basis for concluding that Kosovo's current legal framework, while having strong premises, fails to meet its basic international obligations for the protection of the human rights of the LGBTI+ community.

During the SOP Revision Working Group, in which CEL Kosova actively participated, two critical gaps were identified. First, there is a lack of shelters and safe housing options for LGBTI+ survivors, leaving them without immediate protection in crisis situations. Existing facilities are generally tailored for cisgender women and do not account for the specific needs, safety concerns, or privacy requirements of LGBTI+ individuals. Second, the risk assessment tools currently in use fail to capture SOGIESC-based vulnerabilities, meaning that the unique threats faced by LGBTI+ survivors such as targeted hate, familial rejection, or threats of "outing" are not systematically identified or addressed.

<sup>16</sup> Council of Europe, 2010. *Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity*. Strasbourg: Council of Europe.

<sup>17</sup> European Court of Human Rights, 2015. *Oliari and Others v. Italy*, App. nos. 18766/11 & 36030/11, judgment of 21 July 2015, Strasbourg: ECtHR.



## 4.6 Health Sector Legal Gaps

The health sector remains one of the most underregulated areas affecting the rights and wellbeing of LGBTI+ persons in Kosovo, particularly trans and intersex individuals. Despite constitutional guarantees and the direct applicability of international human-rights treaties, Kosovo lacks a coherent, rights-based medical framework that ensures non-discriminatory, informed, and medically appropriate healthcare for all persons regardless of SOGIESC status.

In Kosovo, medical interventions on intersex individuals, particularly infants, are largely unregulated, creating significant ethical and human rights concerns. The absence of specific legal frameworks governing medical practices related to intersex variations results in a landscape where non-consensual surgeries and invasive procedures are routinely performed without the informed consent of the affected individuals or their guardians. These procedures are often based on outdated medical beliefs that prioritize binary gender assignment over the rights and well-being of intersex individuals.

According to a Council of Europe report, it is estimated that in previous years somewhere between 8.5% and 40% of intersex people “end up rejecting the sex assigned to them at birth, demonstrating major violations of their psychological integrity”.<sup>18</sup> Currently, there are no established legal or medical guidelines in Kosovo that address informed consent for surgical interventions on intersex individuals. This gap allows doctors to proceed with surgeries aimed at assigning a binary gender.

Health institutions in Kosovo are not equipped for gender transitions, hormonal treatment or any other kind of measures benefitting LGBTI+ communities specifically. As for transgender people, the services of state psychologists, endocrinologists for setting up hormonal therapy, and surgeons for transition are not offered.

Kosovo currently provides no functional pathway for gender-affirming care, no psychological support, no hormonal treatment options, no surgical procedures, and no institutional knowledge or training. This systemic failure not only undermines the right to health but also places Kosovo out of alignment with EU health and human-rights standards, a gap that will become increasingly significant as the country advances in the EU integration process.

<sup>18</sup> *Këshilli i Evropës (2015) Të Drejtat e Njeriut dhe Personat Interseks. E disponueshme në: <https://rm.coe.int/16806da5d4>.*



## 5. Institutional and Political Dynamics: The Gap Between Technical Progress and Legal Implementation

Over the past decade, Kosovo has undertaken several formal processes aimed at strengthening its human-rights and anti-discrimination framework, including reforms of the anti-discrimination law, the Criminal Code, the Standard Operating Procedures on domestic and gender-based violence, the Law on free legal aid and the Draft Law on Civil Status. These processes have been driven by working groups composed of institutional representatives, civil society organizations, and international partners, reflecting an emerging recognition of the need for alignment with European and international human-rights standards. On a technical level, these working groups have developed detailed recommendations, drafted legislative amendments, and identified the structural gaps that impede the realization of equal rights for LGBTI+ persons.

Despite the substantial progress achieved within these expert-driven processes, a recurring pattern has emerged: working groups advance, recommendations are formulated, draft laws are prepared, yet the processes remain incomplete or stalled. The revision of the Law on Protection from Discrimination has, for several years, failed to move toward parliamentary procedure.

Amendments to the Criminal Code particularly those addressing gender-based cyber violence and improved implementation of hate-crime provisions remain unfinalized. Similarly, the Draft Law on Civil Status, which would introduce an administrative procedure for legal gender recognition and remove the burdensome court-based model, continues to await adoption by the Assembly despite having been approved by the Government.

This pattern demonstrates that the stagnation does not stem from the technical quality or clarity of the working groups' output. In each instance, the necessary legal language, justifications, and procedural mechanisms have already been identified and drafted. The persistent failure to finalize or operationalize these reforms reflects, above all, a lack of political will. LGBTI+ rights remain politically sensitive, and reforms related to sexual orientation, gender identity, gender expression, and sex characteristics are often deprioritized, postponed, or avoided entirely to circumvent potential public backlash. As a result, legislation that would bring Kosovo closer to European standards ranging from hate-crime enforcement to gender recognition procedures remains suspended in an unfinished state.

The lack of political will is further intensified by the rise of anti-gender narratives in public discourse. These narratives, frequently rooted in misinformation and amplified by political actors and online networks, create a climate of reluctance among decision-makers to advance even technically straightforward reforms. Instead of providing leadership based on constitutional obligations and international standards, institutions often choose inaction, allowing critical legal gaps to persist. Within this context, working groups risk becoming symbolic exercises: technically competent, inclusive of civil society, and aligned with international recommendations, yet ultimately unable to translate their findings into binding legal change.

Institutional resistance also plays a significant role in this stagnation. Key sectors including justice, health, and social services continue to lack SOGIESC-sensitive training and demonstrate internal reluctance to adopt inclusive practices. Without political direction, institutions default to conservative interpretations of the law, thereby maintaining structural barriers that disproportionately impact LGBTI+ persons.



Combined with delays in drafting secondary legislation, this results in a fragmented legal landscape in which protections exist formally but lack practical enforceability.

This dynamic showcases a broader structural issue: Kosovo's legislative mechanisms for advancing LGBTI+ rights are functioning on a technical level but failing at the political level. The gap between drafting and adoption, between obligation and implementation, and between policy and practice reflects a deeper institutional reluctance to commit to full equality. As long as political will remains absent, working groups will continue to produce draft texts that remain suspended progress on paper without progress in reality.



## 6. Institutional Performance (2024–2025)

The institutional response to the protection and advancement of LGBTI+ rights in Kosovo during 2024–2025 reflects a mixed landscape of partial progress and persistent structural shortcomings. Although several institutions demonstrate willingness to engage with civil society particularly through the inclusion of CSO representatives in working groups this engagement has not translated into substantive legislative or policy outcomes. The overarching pattern across institutions indicates that processes often begin with ambitious intentions but remain stalled, primarily due to a lack of political will, competing governmental priorities, and resistance rooted in anti-gender narratives.

Within the police, low reporting remains one of the primary obstacles to effective protection. Data from CEL's casework shows that many survivors continue to report incidents directly to NGOs rather than to the police a manifestation of distrust in the system and a fear of secondary victimization. Operational challenges, such as territorial competence confusion and the absence of an integrated digital reporting and case-tracking system accessible across municipalities, further weaken institutional responsiveness. Police officers still frequently misgender victims, underestimate SOGIESC-based risks, and fail to recognize patterns of digital harassment as components of gender-based violence.

The prosecution similarly struggles to ensure effective handling of cases involving LGBTI+ individuals. Although hate crime provisions exist within national legislation, they are rarely applied in practice, largely due to insufficient specialization and a lack of systematic training on SOGIESC-related vulnerability. Cases that should be prosecuted under aggravating circumstances are often treated as ordinary offences, thereby diminishing both accountability and deterrence.

At the level of central administration, the Ministry of Justice and the Ministry of Interior Affairs present a more nuanced performance. On one hand, the Ministry has consistently included civil society in several major working groups, such as the revision of the Standard Operating Procedures (SOPs), the drafting of amendments to the Criminal Code, and the development of the Draft Law on Civil Status. However, these processes remain incomplete despite long periods of consultation and technical drafting. Amendments that would introduce provisions on gender-based cyber violence, improve the qualification of hate crimes, or create simplified administrative procedures for legal gender recognition have not advanced beyond working-group stage. The pattern demonstrates that while technical work is being produced, political leadership has not prioritized its finalization or adoption.

The Office of the Ombudsperson (OPO) continues to be among the most consistent institutions in promoting equality and non-discrimination. CEL's direct collaboration with the OPO has resulted in monitoring, recommendations, and follow-up on LGBTI+ cases. Nevertheless, implementation of these recommendations by the executive and judiciary remains weak, reinforcing the systemic gap between institutional mandates and practical enforcement.

The Ministry of Health represents one of the most critical areas of institutional stagnation. Despite repeated advocacy efforts, no progress has been made toward regulating health services for transgender or intersex persons.



Public health institutions remain unequipped to provide gender-affirming healthcare, including psychological support, endocrinologist-supervised hormonal treatment, or surgical procedures. Mental health services lack expertise in gender identity issues, and no national clinical protocols have been developed to align medical practice with EU standards on informed decision-making. For intersex individuals, the absence of regulation allows non-consensual and medically unnecessary surgeries to continue without oversight, in stark contrast to emerging European best practices.

Across all institutions, unfinished legislative reforms, slow adoption of by-laws, and stalled policy processes share a common denominator: the lack of political will to advance LGBTI+ equality as a legislative and policy priority. Anti-gender narratives and institutional resistance both passive and active shape decision-making climates in which reforms remain technically drafted but politically abandoned. The result is a governance pattern where working groups produce outputs, civil society contributes expertise, and draft laws accumulate in ministerial or parliamentary pipelines without reaching implementation. Consequently, institutional performance remains constrained not by the absence of technical capacity, but by the absence of the political commitment required to translate commitments into real rights and protections.



## 7. Western Balkans and EU Practices on Legal Gender Recognition and Family Law

Kosovo's position on legal gender recognition and family law is best understood in a regional and European context where practices vary considerably. Neighboring countries show divergent approaches: Albania has recently moved toward administrative recognition of gender changes, marking a notable shift in the Western Balkans toward non-judicial procedures and signaling alignment with modern human-rights standards.<sup>19</sup> In contrast, North Macedonia continues to rely largely on court-based procedures for gender-marker changes, a model that closely mirrors Kosovo's current system and produces many of the same delays and barriers for applicants.<sup>20</sup> Serbia presents a mixed picture: while same-sex partnerships are not legally recognized, the legal framework allows for amendment of a person's gender marker under administrative or registry procedures depending on the specific institutional practice and judicial interpretations.<sup>21</sup>

When compared with EU member states that have adopted best practices, the contrast is instructive. Malta's Gender Identity, Gender Expression and Sex Characteristics Act of 2015 established a clear, rights-based administrative pathway and comprehensive protections for trans and intersex persons, and is widely regarded as a benchmark for legal recognition and bodily autonomy.<sup>22</sup> Belgium's 2018 Gender Recognition Act similarly moved the legislation away from medicalization toward a more self-determination based model, substantially easing the process for persons seeking to change their legal gender. Denmark pioneered reforms that removed medical diagnosis requirements for legal gender recognition, establishing an early European example of simplified, dignity-respecting procedures.<sup>23</sup> These EU examples underscore two recurring principles: procedural accessibility (administrative rather than judicial routes) and depathologization (removing mandatory medical or psychiatric requirements).

The European Commission's work on legal gender recognition and the LGBTIQ Equality Strategy further codifies these trends, encouraging member states to adopt procedures based on self-determination and to remove legal and practical barriers that impede equal treatment.<sup>24</sup> Taken together, the EU and best practice cases form a clear normative benchmark that Kosovo can use to evaluate its own legislative pathway: administrative procedures that respect dignity and autonomy, combined with complementary protections in health and social services, lead to more effective access to rights.

<sup>19</sup> GEU (2025) Fitorja historike: Shqipëria miraton Ligjin gjithëpërfshirës "Për Barazinë Gjinore". E disponueshme në: <https://tgeu.org/historic-win-albania-adopts-inclusive-law-on-gender-equality/>

<sup>20</sup> Funa, A. (2023) 'Njohja ligjore e gjinisë në Maqedoninë e Veriut: një çështje që ndan shoqërinë', GC Human Rights Preparedness, 26 Tetor. E disponueshme në: <https://www.gchumanrights.org/preparedness/legal-gender-recognition-in-north-macedonia-a-question-dividing-society/>

<sup>21</sup> Harta Ylber 2025: Njohja Ligjore e Gjinisë – ILGA-Europe. E disponueshme në: Harta Ylber e ILGA-Europe

<sup>22</sup> Human Rights Directorate, Government of Malta (n.d.) Legal Gender Recognition and Bodily Integrity. Available at: [humanrights.gov.mt/legal-gender-recognition-bodily-integrity](https://humanrights.gov.mt/legal-gender-recognition-bodily-integrity) (accessed 2025).

<sup>23</sup> LGBTIQ+ Intergroup (2014) Denmark becomes Europe's leading country on legal gender recognition, 12 June. Available at: <https://lgbti-ep.eu/2014/06/12/denmark-becomes-europes-leading-country-on-legal-gender-recognition/>

<sup>24</sup> European Commission, Directorate-General for Justice and Consumers (2020) Legal gender recognition in the EU: the journeys of trans people towards full equality. Luxembourg: Publications Office of the European Union.



For Kosovo, these comparisons have two practical implications. First, harmonizing national law with regional administrative-recognition trends like those emerging in Albania and EU standards would not only reduce discriminatory burdens on trans and intersex persons, but would also remove a recurring technical obstacle in the country's broader alignment with European acquis and human-rights expectations. Second, the gap between Kosovo's current court-centric practice and the administrative, depathologized models adopted by several EU states illustrates why legislative reform (not merely technical adjustments) is necessary: without an administrative pathway, Kosovo will continue to produce avoidable barriers to everyday rights (identity documentation, access to services, employment) that are increasingly seen across Europe as incompatible with modern human-rights norms.<sup>25</sup>

In sum, the Western Balkans present a spectrum of approaches ranging from court-based procedures to nascent administrative reforms while leading EU states exemplify best practices centered on accessibility and non-medicalized recognition. For Kosovo, aligning with the latter group would both improve substantive protections for LGBTI+ persons and support the country's long-term objectives of legal harmonization with EU standards.

<sup>25</sup> *Rainbow Map country data – ILGA-Europe. Available at: ILGA Europe country data on legal gender recognition.*



## 8. Recommendations

Achieving meaningful progress for the rights of LGBTI+ persons in Kosovo requires coordinated institutional action and a strong political commitment. The following recommendations outline priority measures for each institution, grounded in international standards and regional best practices.

### ASSEMBLY OF THE REPUBLIC OF KOSOVO

- **Urgent adoption of the Draft Law on Civil Status.**

The absence of an administrative procedure for legal gender recognition continues to harm trans persons and leaves Kosovo below European human rights standards.

- **Amend the Law on Protection from Discrimination to explicitly include “gender characteristics” and intersex status.**

This amendment is essential to ensure visibility and equal protection for intersex individuals and to strengthen compliance with international obligations.

### MINISTRY OF JUSTICE

- **Introduce an administrative model for legal gender recognition based on self-determination.**

The current court-based process is slow, costly, and inconsistent with modern European practices.

- **Finalize the revision of Standard Operating Procedures (SOPs) on domestic violence and gender-based violence.**

The final SOPs must explicitly recognize the vulnerabilities of LGBTI+ survivors and integrate recommendations provided by civil society experts within the working groups.

### KOSOVO POLICE

- **Implement mandatory SOGIESC-sensitive training for all officers.**

Training should prevent misgendering, secondary victimization, and discriminatory treatment, and ensure accurate classification of hate-motivated incidents.

- **Establish a unified digital reporting system accessible across all municipalities.**

Such a system would eliminate confusion over territorial competence and facilitate coordinated responses to incidents motivated by bias or discrimination.



## MINISTRY OF HEALTH

- **Develop comprehensive healthcare protocols specific to transgender persons.**

These protocols should include pathways for hormonal therapy, gender-affirming mental health care, and access to medical procedures not currently available in Kosovo, respecting autonomy and informed consent.

### **Prohibit non-consensual and medically unnecessary surgeries on intersex infants and children.**

- Aligning with emerging European norms on bodily autonomy and informed consent is critical for the protection of intersex individuals.

### **Office of the Ombudsperson**

- **Strengthen monitoring of hate crimes and institutional failures.**

The Ombudsperson should have sufficient resources to ensure systematic oversight and follow-up on recommendations directed at public institutions, using data from police, courts, and civil society.



