

OMBUDSPERSON INSTITUTION



BULLETIN

RECOMMENDATIONS FROM 2013 ANNUAL REPORT

PRISHTINË

RECOMMENDATIONS ON DIRECT APPLICATION OF INTERNATIONAL AGREEMENTS AND INSTRUMENTS

- *Convention on Economic, Social and Cultural Rights to be included into the Constitution of the Republic of Kosovo.*
- *Convention on the Rights of Persons with Disabilities to be included into the Constitution of the Republic of Kosovo.*
- *All institutions of Kosovo Republic to be decisive in respect and full application of international instruments, as Constitution of Republic of Kosovo stipulates.*

RECOMMENDATIONS ON GENDER EQUALITY

- *Efforts to be done on harmonization of Kosovo legislation with EU legislation as per the gender equality.*
- *Foreseen quota with the Law on Gender Equality in all levels to be implemented with the intention to improve women's status in Kosovo society, particularly on their participation in decision making positions in local and central level.*
- *Implementation of the training program for the institution's staff working on human rights and gender equality issues, in local and central level.*
- *To initiate the issue of financially supporting safe homes for domestic violence victims.*
- *The status of women, girls and other persons who have been victims of sexual violence during the war, to be institutionalized and supported by law.*
- *The budget of the Republic of Kosovo to be reviewed from gender aspect through including gender statistics in Institutions and bodies of Kosovo Republic.*

RECOMMENDATIONS ON THE RIGHT TO LIFE

- *The Kosovo Police to be more effective in apprehending the perpetrators of criminal offences against life and body.*
- *The Prosecution to conduct and complete timely investigations and proceed them to courts within legally prescribed time frame.*
- *Kosovo Judicial Institute to continue and intensify further training of judges and prosecutors on criminal cases.*

RECOMMENDATIONS ON THE RIGHT TO LIBERTY AND SECURITY

- *Relevant institutions of the Republic of Kosovo, based on legal and constitutional competences, to protect the rights of each person as per liberty and security, guaranteed with the constitution and laws at force.*
- *Responsible authorities, actually prosecution and judiciary to render the measure of detention on remand solely in cases when it fully complies with legal requirements and international standards on human rights.*

RECOMMENDATIONS ON TORTURE PREVENTION

- *Trainings to be organized for the staff of institutions where people deprived of liberty are placed (for social workers and other staff) with the intention of broadening their knowledge on human rights;*
- *To strengthen cooperation of POB with the KCS and KPS in offering better services through organizing different joint roundtables, workshops and seminars;*
- *Categorization of detainees to be made based on the nature of the offence committed, risk and age.*
- *To inform detainees and prisoners of their rights and obligations as well as the ways of complaints lodging.*
- *Medical and other staff should receive remuneration for the hazardous work as well as better working conditions should be provided to them.*
- *To increase the number of social workers as well as compulsory trainings to be provided to them;*
- *To increase the number of professional staff for the Special Institute in Shtime;*
- *Pocket money to be allowed for the residents, as foreseen with the Administrative Direction No. 04/2007.*

RECOMMENDATIONS ON THE EQUALITY BEFORE THE LAW

- *The Assembly and the Kosovo Government seriously to be engaged in amending the Law on Discrimination, in order to be more explicit and applicable.*
- *The Ministry of Labor and Social Welfare to review the memo no. 122 of the 22nd of April 2013, attained between this Ministry and KEK through removing limits for employment of age group up to 40 years.*
- *Prishtina University to abolish use of dual standards for graduated students in private and public universities for MSc and PhD studies.*
- *Kosovo Assembly and the Special Chamber of the Supreme Court of Kosovo to implement recommendations of the Ombudsperson's report of the 1st of November 2012, regarding the Law 04/L-033 on Special Chamber of the Supreme Court.*
- *Kosovo Government and the Assembly of the Republic of Kosovo to review carefully the work accomplished by Kosovo Privatization Agency, respectively the procedure and the method of privatization as well as inclusion of legitimate workers in 20% compensation from privatization.*
- *Kosovo Government to be seriously engaged in handling problems that derive from not enforcement of the laws which have entered into force, with the main emphases on the Law no. 04/L-092 for blind people.*
- *The Ministry of Labor and Social Welfare to accelerate procedures so that the Draft law on the Status and the Rights of Paraplegic and Quadriplegia people is endorsed by Kosovo Assembly as soon as possible.*
- *Kosovo Government, actually the Ministry of Education to facilitate free access of people with disabilities, who depend on assistive devices in school premises and other public institutions.*
- *Prishtina municipality to undertake everything in its power to release public property for the free use of it by the citizens, for free access to their private properties as well, releasing public areas illegally appropriated at the Green market in Prishtina.*
- *Kosovo Property Agency should handle properties under its administration in accordance with the law and the owners of those properties on the base of equality and without discrimination.*

RECOMMENDATIONS ON THE RIGHT TO A FAIR AND IMPARTIAL TRIAL

- *All measures and legal actions to be undertaken for reducing the backlog of cases through approving the program on unsolved cases reduction, which should be applicable and easily managed.*
- *To increase the number of judges and legal professional associates as well as other administrative staff in order to raise judges' efficiency and effectiveness in accomplishing their daily assignments.*

RECOMMENDATIONS ON THE RIGHTS OF THE ACCUSED

- *Courts to render other alternative measures while imposition of detention to be delivered only in circumstances when it is mandatory and legally grounded, as a mean of securing the accused.*
- *The Chamber of Advocates to ensure provision of higher quality of legal assistance in representing ex officio cases as well as clearly and undoubtedly define and ensure respect of clients' rights by the lawyers, in case of damages endured by lawyers' inefficiency, investigate and undertake disciplinary measures.*

RECOMMENDATIONS ON THE RIGHT ON LEGAL REMEDIES

- *All institutions in the Republic of Kosovo in all levels, administrative bodies and courts to consequently apply local laws and international instruments for exercising of legal remedies by public authorities.*
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RECOMMENDATIONS ON THE PRINCIPLE OF LEGALITY AND PROPORTIONALITY IN CRIMINAL CASES

- *To all courts in the Republic of Kosovo to apply the principle of proportionality in their decisions.*

RECOMMENDATIONS ON THE RIGHT TO PROPERTY

- *To Kosovo Assembly and to municipalities that all expropriations and remunerations for the expropriated properties to accomplish based on the Law on expropriation.*
- *To courts to undertake all measures envisaged by the law for accelerating procedures on obstruction to possession cases.*

RECOMMENDATIONS ON THE FREEDOM OF MOVEMENT

- *The Government of Kosovo to undertake all necessary measures in order to ensure unconditional and freedom of movement of people and goods, without limitations within the whole territory of the Republic of Kosovo.*
- *The Government of Kosovo, within shortest time limit, to undertake compulsory measures in order to achieve agreement between insurance companies in Kosovo and Serbia, which will result with not payment of car insurance in border crossing points as well as double payment of this fee for automobile vehicles.*
- *The Ministry of Internal Affairs to undertake all necessary measures within the shortest time line in order to resolve all submitted requests for vehicle pre-registration and issuance of permanent registration marks.*
- *To the Government of Kosovo, upon assessment of entire situation and upon reasonability, to decide on the best interest of its citizens regarding further continuation of humanitarian transport.*
- *Responsible and relevant institutions, the Government of the Republic of Kosovo as well as Kosovo Police to undertake all actions, according to legal liabilities to guarantee life, property, health and freedom of movement to all its citizens, in entire territory of the Republic of Kosovo, with particular emphases on the northern part of Mitrovica.*
- *To remove all barricades set and release roads in the northern part of Kosovo in order to guarantee freedom of movement to all people living in this part of the country, establishing law and order through security and economic development in northern part of Kosovo.*
- *To undertake all deeds prescribed by law to combat criminality and organized criminal groups within the whole territory of the Republic of Kosovo, without hesitations and reluctance of political nature.*

RECOMMENDATIONS ON THE RIGHT TO PRIVACY

- *The Government and the Assembly of the Republic of Kosovo to proceed without further delays endorsement of the Law on interception of telecommunication.*
- *Urbanization and municipal inspection as well as construction market to undertake all legal measures in respect of the distance between newly constructed objects and existing ones.*
- *Municipal inspections to undertake all legal deeds for respect and enforcement of the Law on Noise, with the main emphases on bars and restaurants that cause intolerable noise during late night hours.*

RECOMMENDATIONS ON THE RIGHT TO MARRIAGE AND FAMILY

- *Competent Courts that decide on family conflicts, particularly Basic Courts in Kosovo, to inhibit unjustifiable procedural delays.*
- *Courts that decide on family cases, particularly cases when children are involved, to establish better cooperation with CSW and take in consideration their professional opinions.*
- *MLSW – respectively the Department of Social Welfare to monitor the work of Centers for Social Work in order to increase the efficiency in cases when courts and other competent institutions require professional assistance in family cases from CSW.*

RECOMMENDATIONS ON FREEDOM OF RELIGION, FAITH AND CONSCIENCE

- *The Government and the Assembly of the Republic of Kosovo to undertake all actions for proceeding the Law on Religious Communities in Kosovo.*

RECOMMENDATIONS ON THE RIGHT TO ACCESS TO PUBLIC DOCUMENTS

- *The Government of Kosovo to intensify activities regarding awareness rising on undisturbed access to public documents through information campaigns which will be initially intended to responsible institutional officials but to citizens as well regarding this right.*
- *All public institutions to expand and intensify continual trainings of officials in order to professionally handle records of public documents and respond to citizens' requests diligently, accurately and in accordance with the law.*
- *The Government and the Assembly of the Republic of Kosovo to undertake all necessary actions to start amending the Law on Access to Public Documents in order to make it simple, accurate and applicable.*

RECOMMENDATIONS ON THE FREEDOM OF GATHERING

- *The Government and the Assembly of the Republic of Kosovo to undertake actions for amendment and alternation of the Law on Public Gathering, precisely of the article 12, paragraph 3 in order to be fully in compliance with Article 11 of ECHR on freedom of assembly and association.*

RECOMMENDATIONS ON THE RIGHT TO WORK AND EXERCISE PROFESSION

- *The Government of Republic of Kosovo, on particular Labor Inspectorate, to require sound responsibility from institutions and responsible persons regarding not implementing of the Labor Law in public and private sector.*
- *Ministry of Labor and Social Welfare jointly with Labor Inspectorate to undertake measures to prevent child labor phenomenon, through drafting particular programs of identifying employers who breach the law as per this issue and condemning them according to the law.*
- *Labor Inspectorate to have an oversight upon application of the provisions of Labor Law and the Law on Health and Social Protection as well as to undertake adequate legal measures for protection of employees' health in cases when this law is breached by the employers and their punishment in accordance with the law at force.*
- *To increase the number of inspectors in the Labor Inspectorate in all levels, according to objectives needs, as previously stated in Ombudsman's annual reports.*

RECOMMENDATIONS ON THE RIGHT ON ELECTION AND PARTICIPATION

- *Timely provision of Polling Centers with appropriate material for regular flow of the voting process the Voting Day.*
- *Adequate selection of PSC members as well as their training and testing*
- *To review the possibility of appointment of the PSC members in the PS or PC where they vote or nearest to the PC where they vote.*
- *Members of PSC who perform as ballot holders and are in charge of spraying voter fingers with invisible ink, to be timely equipped with gloves in order to prevent from spraying their fingers with the invisible ink and vote for themselves with no problem.*
- *To review the Final Voting List by removing from them names of diseased people.*
 - *All the posters and billboards of political entities, with photographs of mayoral and municipal assembly candidates should be removed before the start of the election silence, i.e. at least 24 hours before the start of the voting process.*
 - *Create suitable conditions to ensure all persons with disabilities (especially those in wheelchairs) have easily access to all PCs and PSs where they vote. In cases where this is not possible or requires more time for implementation, mobile CEC and MEC teams should enable to them voting within their homes or apartments, in accordance with the relevant Election Rules of the CEC.*
 - *Principle of bilingualism to be respected in all PCs and PSs, including election materials Kosovo wide.*
 - *Appropriate legal provisions to be introduced defining the exercise of the right to vote for persons who are on duty on Election Day, or during the duration of the voting process.*
 - *Communication with voters outside Kosovo to improve, so that they receive ballots timely in order to exercise their right to vote, in accordance with the relevant Election Rules of the CEC.*
 - *To initiate criminal proceedings and bring before the courts all those who incited incidents and interfered with the voting process, especially those who destroyed election materials in PC in the North Mitrovica, which caused disruption of voting process and early closure of PC's. Adjudication of these cases should have priority.*

RECOMMENDATIONS ON THE RIGHTS TO EDUCATION

- *With the purpose of prevention and respond towards the violence in educational institutions, the MEST, MED as well as all pre-university educational institutions to implement liabilities stipulated by the Protocol on Prevention of Violence in pre-university educational institutions.*
- *Municipalities and MEDs to hire professionals in the psycho-pedagogic field in pre-university educational institutions.*
- *MEST in cooperation with partners and text writers to review educational quality of the text book on Civic education for the VIII grade.*
- *MEST and the MED, in cooperation with the Tax Administration of Kosovo to implement the Law on Games of Chance and remove facilities performing this kind of activity from the neighborhood of pre-university educational institutions according to their legal request.*
- *MEST to increase funds for special needs children and ensure their inclusion in educational process.*
- *Municipalities and MEDs to locate complaint boxes in all educational institutions.*
- *Municipalities and MEDs timely to supply schools with the fluid for hitting during the winter season.*

CHILDREN'S RIGHTS IN KOSOVO

- ***Recommendations on the children's rights to education***
- *To undertake all necessary measures to ensure application of specific legislation that adjusts educational aspect as per teachers' number increase and their professional upgrading in inclusive education;*
- *To undertake all necessary measures for improvement and enhancing physical infrastructure as well as per particular fund allocation to ensure transport of special needs children.*
- ***Recommendations regarding violence and security in schools***
- *School staff to be comprised from psychologists and pedagogues.*
- *Supervision classes to be mandatory and within curriculum.*
- *To strengthen communication between teachers and parents with the intention to better address children's problems and concerns.*
- *To undertake adequate activities for increasing security in school premises (such as, camera setting).*
- *Children to be informed regarding consequences and risk that use of narcotics can cause.*

- ***Recommendations on juveniles justice***

- *Provisions of Juvenile Justice Code, concerning juvenile detention on remand, precisely duration of detention on remand to be respected and accurately implemented.*

- *Strengthening of cooperation between institutions involved in juvenile justice system (Correctional Service, Probation Service, courts, prosecution offices, lawyers, centers for social work, etc.), as well as civic society.*

- *Broader application of diversity measures as well as those educational in compliance with the best interests of a child, taking in consideration circumstances of each case separately.*

- *Funds to be allocated in support of juveniles, aiming their re-integration, after they have been released from imposed and accomplished re-educational measures.*

- *Establishment of the data base in national level with the purpose to integrate data of certain institutions dealing with child delinquency.*

- ***Recommendations regarding trafficking of human beings, child victims***

- *To strengthen the capacity of certain institutions employees on efficient identification of juvenile victims, provision of adequate assistance and their treatment according to needs and circumstances of each case.*

- *Specific actions to be taken in order to increase responsibility and accountability of employees working on cases that involve trafficking with human beings.*

- *Continuation of information campaigns, especially for children, regarding trafficking of human beings, about possible risks and ways of its identification as well as information on the right of children for protection and assistance.*

- *Establishment of particular funds for financial support of urgent needs of trafficking victims and their full reintegration in the society.*

RECOMMENDATIONS ON THE RESPONSIBILITY ON LIVING ENVIRONMENT

- *The Government of Kosovo to increase the budget and investments for environment protection.*
- *The Government of Kosovo as well as municipal governments to undertake concrete measures for constitution of administrative capacities as well as of inspectorates for most favorable implementation of environmental laws.*
- *To undertake awareness campaigns in order to increase sensibility of public on their right for healthy environment, ways to accomplish their right as well as environment protection.*
- *Improvement of institutional cooperation in local and central level, among two levels as well as with civil society, in issues concerning environment protection.*
- *Municipal governments to improve public participation in decision making processes regarding environmental issues.*
- *Penalty measures to be imposed to responsible officials for inefficiency on implementation of environmental laws.*

RECOMMENDATIONS ON SOCIAL AND HEALTH PROTECTION

- *The Assembly and the Government of Kosovo to adopt the necessary legal infrastructure for people with disabilities in Kosovo in order to provide all people with disabilities with pensions, according to professional evaluation on categorization and without discrimination.*
- *The Government ought to monitor closely, continuously and systematically the quality of medical procedures, qualification of medical staff and in this form to minimize the possibility for abuse in exercising the profession in the health care sector.*
- *The Government of Kosovo, through specific normative acts and concrete deeds to establish decent living conditions to citizens after repatriation process.*
- *The Government of Kosovo to undertake measures for issuing normative acts on categorization of the limited ability.*
- *The Government and the Assembly of the Republic of Kosovo to strive for inclusion of Convention on Economic, Social and Cultural Rights within the Constitution of Republic of Kosovo.*
- *The Government and the Assembly of the Republic of Kosovo to be fully engaged in integration of Convention on Human Rights and the rights of persons with disabilities within the Constitution of Republic of Kosovo.*
- *The Ministry of Health and the University Clinical Centre of Kosovo to urgently engage themselves in provision of medications from the basic list.*
- *The Ministry of Health and the University Clinical Centre of Kosovo urgently to be engaged in finding solution for heating problem in UCCK.*
- *The Ministry of Health to be fully and seriously engaged on adjustment of the market of pharmaceutical products as well as instructions for their use.*
- *The Government and the Assembly of the Republic of Kosovo to undertake immediate actions for ratification of the law on pensions.*
- *The Government and the Assembly of the Republic of Kosovo to undertake actions to accelerate procedures for endorsement of the Law on health insurance.*

LEGAL PROTECTION OF RIGHTS

- **Recommendations to the Assembly of the Republic of Kosovo, Government and Kosovo Judicial Council**

- *To extend judicial power within all its territory, including northern part of Mitrovica and municipalities Leposaviq, Zubin Potok and Zveçan, as prescribed by the Constitution of the Republic of Kosovo.*

- **Recommendations to the Kosovo Judicial Council and the Ministry of Justice**

- *To initiate drafting of a legal instrument that would pose effective remedy in perception of article 13 of the European Convention on Human Rights, which provides attenuation in a form of prevention or compensation as per complaints reaching statutory limitation and excessive delays of judicial proceedings.*

- *To initiate issuance of a provisional decision to ban statutory limitation of court cases in the Republic of Kosovo due to the risk of dilapidation of the judicial system as result of citizens' denial to address judiciary for resolving different disputes*

- **Recommendations to the Kosovo Judicial Council**

- *To increase the number of judges and professional associates in courts so that all cases are handled within reasonable time limit and without unreasonable delays on decision making.*

- *Increase efficiency for implementation of the State Strategy for "Reduction of Pending Court Cases" in order to decrease the number of unsolved judicial cases.*

- **Recommendations to Courts**

- *Execution and coherent implementation of omnipotent judicial decisions within time frame prescribed by law.*

- *Increase the transparency and notification of all parties, upon their request to be informed about their cases, after restructuring of courts according to the law and hand over of judicial cases to legal competences.*

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RECOMMENDATION REGARDING OMBUDSPERSON'S RELATION WITH THE CONSTITUTIONAL COURT

- *The 6 month period for submission of Ombudsperson's requests to Constitutional Court to be removed or most conveniently, Ombudsperson's right to submit requests to the Constitutional Court, regarding the laws, should not be time limited.*

RECOMMENDATIONS FOR THE USE OF LANGUAGES

- *The Government of Kosovo in central and local level to ensure strengthening of public institutions' capacities in a way that the Law on use of Languages is fully respected and properly applied.*
- *All institutions in central level as well as all municipalities in the Republic of Kosovo to ensure employment of professional translators for Serbian language and other official languages, with the aim to improve translation of the documents in these languages.*
- *The Government of Kosovo in cooperation with relevant Ministries to do everything in their power to diminish gaps between languages spoken in this county and ensure learning of additional official languages.*
- *All institutions of the Republic of Kosovo to provide appropriate training for civil servants in order to ensure learning of both official languages within the whole territory of the Republic of Kosovo, specifically in municipalities with Serbian majority, with the intention to overcome lingual obstacles.*

RECOMMENDATIONS REGARDING DRAFT LAWS AND SUB LEGAL ACTS

- *Only those normative acts which on any of its parts affect human right, especially when it comes to definition or limitation of human rights and freedoms, ought to be addressed for counselling to OI.*
- *That time period for counselling ought not to be shorter than 15 days, from the day of act submission for review.*

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