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Republika Kosova-Republic of Kosovo
Qeveria - Vlada - Government
ZYRA E KRYEMINISTRIT/ OFFICE OF THE PRIME
MINISTER/ URED PREMIJERA
AGJENCIA PËR BARAZI GJINORE / AGENCIJA ZA
RAVNOPRAVNOST POLOVA/AGENCY FOR GENDER EQUALTY

2015 LAW ON GENDER EQUALITY EX-POST EVALUATION OF THE REGULATORY IMPACT

Prishtina 2017-2018



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ABBREVIATIONS

- AGE – Agency for Gender Equality
- CEDAW – Convention on the Elimination of All Forms of Discrimination against Women
- CoE – Council of Europe
- EC – European Commission
- EIGE – European Institute for Gender Equality
- EU – European Union
- FRA – European Union Agency for Fundamental Rights
- GBV – Gender-Based Violence
- GE – Gender Equality
- LGE – Law on Gender Equality
- GRK – Government of the Republic of Kosovo
- KAS – Kosovo Agency of Statistics
- KGSC – Kosovar Gender Studies Centre
- KIPA – Kosovo Institute for Public Administration
- KPGE – Kosovo Program for Gender Equality
- M&E – Monitoring and Evaluation
- MAFRD – Ministry of Agriculture, Forestry and Rural Development
- MCR – Ministry for Community and Return
- MCYS – Ministry of Culture, Youth and Sports
- MD – Ministry of Diaspora
- MED – Ministry of Economic Development
- MEI – Ministry of European Integration
- MEST – Ministry of Education, Science and Technology
- MoF – Ministry of Finance
- MFA – Ministry of Foreign Affairs
- MoH – Ministry of Health

MoI – Ministry of Infrastructure

MIA – Ministry of Internal Affairs

MoJ – Ministry of Justice

MKSF – Ministry for the Kosovo Security Forces

MLGA – Ministry of Local Government Administration

MLSW – Ministry of Labour and Social Welfare

MESP – Ministry of Environment and Spatial Planning

MPA – Ministry of Public Administration

MTI – Ministry of Trade and Industry

NGO – Non-Governmental Organization

OECD – Organization for Economic Co-operation and Development

OPM – Office of the Prime Minister

SIDA – Swedish International Development Cooperation Agency

TAIEX – Technical Assistance and Information Exchange instrument

TWG – Technical Working Group

UNESCO – United Nations Educational, Scientific and Cultural Organization

UP – University of Prishtina

EXECUTIVE SUMMARY

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EXECUTIVE SUMMARY

According to the Kosovo Constitution, gender equality is guaranteed by the state. The Constitution states that international human rights conventions, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the European Convention on Human Rights (ECHR), have priority over national legislation. The Kosovo Program for Gender Equality (2008) sets out the general framework for the integration of gender equality into laws, policies and public services. The Kosovo Program against Domestic Violence and Action Plan (2011-2014) details the roles of all stakeholders in prevention, protection, rehabilitation/reintegration, and coordination in domestic violence cases.

The implementation and coordination of all priorities identified in the National Gender Policy Framework, as described in the Kosovo Program for Gender Equality, is the responsibility of the Agency for Gender Equality within the Office of the Prime Minister. The European integration process, the Stabilization and Association Agreement signed, the highest political commitments to UN instruments and international law, and the higher visibility of the gender equality agenda in the region provide the Agency for Gender Equality, being the central mechanism, the opportunity to further strengthen its profile, refine its mandate and approach, and work more strategically. AGE can rely on the existing, sector-based strategies and areas of work. At the same time, the AGE should address its continuing constraints and challenges, with a particular focus on implementing the relevant legal framework and promoting gender evidence-based policy-making. The analysis of the data collected on LGE implementation, and the AGE management needs and concerns for institutional strengthening, expansion and consolidation, reveal a set of priority issues and recommended actions to strengthen Kosovo's national mechanism in order for the AGE to be more effective in promoting the gender equality agenda.

The way the legal framework for gender equality in Kosovo is developed describes a path that is unclear and unstable. According to a Council of Europe Opinion on the proposed new Law on Gender Equality [2015], the previous 2014 Law on Gender Equality did not have clear provisions on available remedies, including legal protection, sanctions and compensation. Also, it was not clear enough in the division of responsibilities for all public bodies, including the Agency for Gender Equality, and there were no clear provisions on gender mainstreaming and gender budgeting, which the Agency identified as a deficiency to be addressed in the new law. However, the same source confirms that, according to the EU, the main problem with LGE in Kosovo is related to its

implementation. Therefore, despite marginal improvements in the comprehensiveness and coherence of relevant terminology, the new 2015 law does not significantly impact the ‘implementation’ question.

The questionnaire applied by AGE cannot be considered as a sufficient tool to measure the level of fulfilment of these responsibilities. Questions are of a generic nature and in an unstructured pattern when switching from the institutional governance to policy implementation.

There is no available and clearly measurable evidence showing the manner the institutions conduct the required analysis. Responses provided to the AGE questionnaire make no clear reference to the LGE when they report on equality measures and issues. This indicates a low level of awareness of the targeted institutions regarding the applicability of the binding provisions laid down in the relevant law. The generic nature of questions limits the quality and accuracy of data analysis the AGE may conduct as part of its program routine.

Despite of the gender-disaggregated data and relevant analyses published by KAS, the questionnaire’s responses reflect the need to develop the capacities that address the gaps in gender disaggregation in data collection and analysis.

There is no gender budgeting practice being implemented in the targeted (surveyed) institutions. The low level of awareness on LGE and of knowledge on the applicability of specific provisions confirms that, despite some communication between AGE and other institutions, significant improvements are required from AGE to consolidate its role and act as the main GE stakeholder in fulfilling its functions and responsibilities established by law. The questionnaire provided very limited data on the training, with no details on the thematic provisions, services, and the target audience. Targeted institutions responded to questions on this specific issue only in quantitative terms.

Despite its limitations, the questionnaire’s responses provide interesting data, though limited in relation to the application of the 50% quota. In most targeted institutions, this quota is not applied due to several reasons. However, there are two major identified hindrances: a) when it comes to recruitment, procedures in most cases are referred to and justified on the basis of the Law on Civil Service, according to which, the principle of equal opportunities is balanced with meritocracy; b) there is an obvious lack of awareness and applied knowledge among institutional management stakeholders regarding the practical requirements of LGE implementation in internal institutional governance, sectorial policies and relevant public services. There are other gaps in addition to these

problems, such as inadequate human resources, inadequate planning and lack of data, overlapping structures and weak inter-institutional communication/cooperation.

A particularly confusing point stands with the LGE provision itself when stating [citation]: "... is achieved when ensured a minimum representation of fifty percent (50%) for each gender". Having the term 'minimum', the provision supports a standard that is quantifiable. Therefore, the maximum level of representation can be interpreted as implicit, but this is missing in the provision provided, although it is an issue that should have been included in this provision.

The respondents to questionnaire confirm that no financial and human resource allocation is made to support required measures or programmes to be undertaken by the public institution. The questionnaire's responses provide clear evidence that action-planning in virtue of the LGE and KPGE (Kosovo Program for Gender Equality) is either non-applicable or very limited (participation in sponsored trainings/workshops) at line ministries and municipalities. The respondents gave lack of funding and insufficient staff to justify such shortcomings.

Despite the active role of NGOs and networks in advocating gender equality in Kosovo, legislative, executive, judicial bodies at all levels and other public institutions provide very limited data as a response to the questionnaire with regard to adoption and implementation of special measures. The need for special measures is real, and in certain cases confirmed by institutions themselves. In most cases, the lack of action, when data are available, is justified with lack of funding. However, even the best performing institution according to responses submitted lacks data on gender-responsive budgeting or relevant gender mainstreaming practices. Lack of regulatory instructions on gender-responsive policies may hinder successful implementation of those special measures required by the LGE.

The AGE questionnaire does not include responses from Ministry of Labour and Social Welfare. According to KAS¹, participation in the labour force in 2017 was 43.0%, where the number of females belonging to the labour force was 20.0%, while 65.7% was for males. In 2017, in Kosovo, 46.8% of males of working age were employed compared to 12.7% of females of working age being employed. The same source reads: "When asked if they had their rights in their main job, to benefit from social security scheme at work,

¹ Labour Force Survey Q2 - 2017, Series 5: Social Statistics, Kosovo Agency of Statistics, Prishtina, October 2017.

the survey data showed that only 5.2% of employees had this right”. This particular is for the law to consider workers of each gender in a high scale of vulnerability.

A monitoring framework to measure the level of accomplishment of institutional responsibilities in gender equality policy implementation is recommended. Apart from the cross-sectoral dimensions, the framework will include all levels of governance, judicial and legislative powers. To enable a sustainable practice of gender-responsive budgeting and gender mainstreaming, capacity development activities including training need to be regularly prepared and integrated into the AGE Work Plan and KPGE. To achieve best quality results in designing, delivery and response to needs of target groups, AGE will need to cooperate with a number of relevant institutions and programmes at regional and European level, such as EIGE, TAIEX, Council of Europe, UNESCO, Regional Cooperation Council etc. in order to learn from the previous practices.

An effective framework on gender equality regulatory monitoring starts by ensuring that gender is addressed in institutional policies and procedures. It also requires dedicated monitoring and evaluation human resources with the knowledge and competencies required to collect, verify, analyse, report, and use gender data. Institutional stakeholders’ participation contributes to the development of a national gender equality M&E plan and work plan that have gender fully integrated across all M&E processes. Institutions also need to create a culture for using gender-sensitive data to inform their programs.

A central LGE M&E framework which is easily cohesive with the national monitoring system relies on mechanisms for collecting data needed to measure the implementation progress and inform programming. The framework requires data to inform the types of services and interventions that are needed and to assess how effectively those services and interventions are being implemented, if they are being accessed and used, how effective they are in accomplishing program objectives, and what their overall impact is on gender equality in Kosovo. These mechanisms used to collect data through routine program monitoring, surveys, and evaluations and research need a careful review for alignment with the national policy framework on gender equality. They also need to be kept updated to ensure they are gender-sensitive and capture gender data specified in the M&E plan.

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➤ INTRODUCTION

There are several legal and institutional mechanisms that seek to ensure gender equality in Kosovo. Under the Kosovo Constitution, gender equality is guaranteed by the state. The Constitution states that international human rights conventions, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the European Convention on Human Rights (ECHR), have priority over national legislation, but the most important laws are the Anti-Discrimination Law, the Law on Ombudsperson, the Law on Gender Equality, and the Kosovo Program for Gender Equality (2008), which sets the general framework for integrating gender equality into laws, policies, and public services. The Kosovo Program against Domestic Violence and Action Plan (2011-2014) details the roles of all stakeholders related to prevention, protection, rehabilitation/reintegration, and coordination in domestic violence cases.

The following list describes the current institutional mechanisms² on gender equality in Kosovo

Mechanisms at the Assembly of the Republic of Kosovo

- ÷ The group of women MPs
- ÷ Parliamentary Committee for Freedom and Human Rights, Gender Equality, Missing Persons and Petitions

Mechanisms at the Government level and the state level

- ÷ Agency for Gender Equality/Office of the Prime Minister of the Republic of Kosovo
- ÷ Ombudsperson Institution - Gender Equality Unit
- ÷ Gender equality officers in line ministries and municipalities

Mechanisms at the local level

- ÷ Gender equality officers in municipalities

Non-governmental stakeholders, as described below, are considered part of a functioning institutional mechanism as they *enable* voters to raise their voice and *protect* the rights and equality of women but also serve as very useful partners of local governments in providing social services and access which affects vulnerable groups and remote areas.

² Source: Kosovo

- ÷ Non-governmental organizations/networks
- ÷ Shelters (in six cities)

The Agency for Gender Equality within the Office of the Prime Minister, as provided for in Articles 7 and 8 of the Law on Gender Equality, is responsible for the process of implementing and coordinating all the priorities identified in the National Gender Policy Framework, respectively the Kosovo Program for Gender Equality. The European integration process, the Stabilization and Association Agreement signed, the highest political commitments to UN instruments and international law, and the higher visibility of the gender equality agenda in the region provide the Agency for Gender Equality, being the central mechanism, the opportunity to further strengthen its profile, refine its mandate and approach, and work more strategically. AGE can rely on the existing, sector-based strategies and areas of work. At the same time, the AGE should address its continuing constraints and challenges, with a particular focus on implementing the relevant legal framework and promoting gender evidence-based policy-making. The analysis of the data collected on LGE implementation, and the AGE management needs and concerns for institutional strengthening, expansion and consolidation, reveal a set of priority issues and recommended actions to strengthen Kosovo's national mechanism in order for the AGE to be more effective in promoting the gender equality agenda.

The mandate of national mechanism needs to be further clarified specifying its goal and emphasizing its catalytic role in the promotion of gender equality and the systematic use of the gender mainstreaming as a cross-cutting strategy.

1.1 Importance of the Law on Gender Equality in Kosovo

Gender equality is viewed as a fundamental value for the democratic development of the society by Kosovo's Constitution. According to article 7.2 of the Constitution, institutional commitment and action is assured through the following:

#7.2 The Republic of Kosovo ensures gender equality as a fundamental value for the democratic development of the society, providing equal opportunities for both female and male participation in the political, economic, social, cultural and other areas of societal life.

The direct applicability of CEDAW and of other instruments of the International Human Rights Law into Kosovo domestic legal system is governed under Article 22 of the Constitution.

#22 [Direct Applicability of International Agreements and Instruments]:

Human rights and fundamental freedoms guaranteed by the following international agreements and instruments are guaranteed by this Constitution, are directly applicable in the Republic of Kosovo and, in the case of conflict, have priority over provisions of laws and other acts of public institutions:

- (1) Universal Declaration of Human Rights;
- (2) European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols;
- (3) International Covenant on Civil and Political Rights and its Protocols;
- (4) Council of Europe Framework Convention for the Protection of National Minorities;
- (5) Convention on the Elimination of All Forms of Racial Discrimination;
- (6) Convention on the Elimination of All Forms of Discrimination Against Women;
- (7) Convention on the Rights of the Child;
- (8) Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment;

Direct applicability refers to the case when a piece of international law becomes part of domestic law without the need for any implementing legislation. The legal instruments, including CEDAW described in Article 22, are directly applicable, as they come into force without any further action from Kosovo side. Although not literally stated in the given Article, direct effect of the enlisted instruments is implicit, as the provisions of these directly applicable instruments can create rights which Kosovo citizens may rely on before their domestic courts.

However, in the 'direct effect' context, it is important to note that the list of human rights law instruments mentioned under Article 22 should be considered as non-exhaustive as there are other relevant legal instruments that may apply to the practice of the human rights protection. Direct effect refers to the ability of citizens to enforce rights derived from self-executive international law instruments directly in national courts. In other

words, if a provision of a UN Convention satisfies the requirements to be directly applicable, national courts must enforce the rights guaranteed by such provision.

Gender equality and gender-based discrimination are relatively well-established concepts in Kosovo legislation. On the other hand, gender equality and gender-based discrimination are still quite poorly understood.

Article 24 of the Constitution provides both a more general and non-exhaustive reference, rather than a solid legal basis to grounds of discrimination, including gender-based discrimination and its prohibition. However, this Article provides for the following:

#24.3 Principles of equal legal protection shall not prevent the imposition of measures necessary to protect and advance the rights of individuals and groups who are in unequal positions. Such measures shall be applied only until the purposes for which they are imposed have been fulfilled.

The current Law on Gender Equality was preceded by a similar one promulgated by UNMIK Regulation No. 2004/18³. The 2004 Law on Gender Equality provided for the establishment of an Office for Gender Equality 'as a separate government institution' and this was transformed into the Agency for Gender Equality under the Office of the Prime Minister in 2007⁴. The Agency is the central structure for coordinating the policies on gender issues inside the Government⁵, with its functions and organizational structure being established in the Regulation (GRK) No. 06/2017 on internal organization and systematization of jobs in Agency on Gender Equality. Its establishment can be marked as the major achievement of the 2004 Law on Gender Equality, although its institutional consolidation is still on-going. The accurate definition and allocation of the O/AGE tasks and functions was of particular relevance with regard to revision of the scope of the Advisory Office on Good Governance, Human Rights, Equal Opportunities and Gender Issues ('the AOGG')⁶, established in 2002 within the OPM, and now reframed as Office for Good Governance and Human Rights. Initially, the AOGG had some powers on gender equality issues as an integral part of human rights. At the time both offices were

³ The Law on Gender Equality, Official Gazette 16/2015.

⁴ Administrative Direction No. 2007/3 implementing UNMIK Regulation No. 2001/19 on the Executive Branch of the Provisional Institutions of Self-Government.

⁵ Its responsibilities are defined by Regulation No. 16/23 on the Organisational Structure of the Office of the Prime Minister (2013).

⁶ Now the Office for Good Governance, Human Rights, Equal Opportunities and Non-Discrimination ('OGG') following the adoption of Regulation No. 16/23 on the Organisational Structure of the Office of the Prime Minister, (2013).

established, they were bound by the respective legislation to coordinate activities between the Office/Agency for Gender Equality and the AOGG but, as evaluated by a recent legal analysis⁷ conducted on behalf of Council of Europe with regard to the proposed draft law on gender equality, the powers of two offices were somewhat overlapping and this led to disagreements and insufficient cooperation between them.

The 2004 Law on Gender Equality adopted provisions on gender equality and non-discrimination and established several action plans on gender equality such as the Kosovo Program on Gender Equality 2008-2013, the Action Plan against Domestic Violence 2011- 2014. Later, the Agency developed and implemented the Action Plan for the Implementation of UN Security Council Resolution 1325, which has continued to be in charge of the institutional coordination process in its implementation.

This law was replaced by another one adopted in 2015, but to date, no secondary legislation has been adopted to support the equality standards and effective policy actions outlined in the provisions of 2004 or 2015 laws, with such actions being of high [applicability] importance in the field of this analysis. The 2015 Law on Gender Equality was adopted without a proper ex-ante evaluation of legal reasoning and applicability of the new legislation, including expected financial implications and a provision for revising secondary legislation. At this point, the two regulations envisaged and adopted under this Law, namely, the Regulation (GRK) No. 06/2017 on internal organization and systematization of jobs in Agency on Gender Equality and the Regulation (GRK) No. 12/2016 on duties and responsibilities of relevant officials for gender equality in ministries and municipalities, represent only an initial basis for the implementation of the standards set out in the relevant legal and policy framework.

The way the legal framework for gender equality in Kosovo is developed describes a path that is unclear and unstable. According to a Council of Europe Opinion on the proposed new Law on Gender Equality [2015], the previous 2014 Law on Gender Equality did not have clear provisions on available remedies, including legal protection, sanctions and compensation. Also, it was not clear enough in the division of responsibilities for all public bodies, including the Agency for Gender Equality, and there were no clear provisions on gender mainstreaming and gender budgeting, which the Agency identified as a deficiency to be addressed in the new law. However, the same source confirms that, according to the EU, the main problem with LGE in Kosovo is related to its

⁷ 'Opinion on the draft Law on Gender Equality' - Enhancing Human Rights Protection in Kosovo – Joint Project of EU and Council of Europe, 2012-2014.

implementation. Therefore, despite marginal improvements in the comprehensiveness and coherence of relevant terminology, the new 2015 law does not significantly impact the ‘implementation’ question. Added with new concepts like gender mainstreaming, gender budgeting, sexual orientation, the 2015 version cannot be qualified as an amended law; it cannot be considered a new legislation, either.

Considering the specifics of Kosovo institutional setting, the shared powers between UN administration and institutions of self-governance, with the adoption of a new law on gender equality it seems clear that the legislator was reluctant to ensure continuity between the previous version [2004] and the new version [2015] of the LGE. Although it details new necessary concepts such as gender-responsive budgeting and gender mainstreaming, the 2015 LGE stagnates in its implementation due to the unsatisfactory level of institutional commitments and public administration awareness and due to incomplete list of approved bylaws needed for this particular and other components included in the new law.

1.2 Scope of the Assignment

The drafting of an ex-post evaluation report summarizing the impact findings and the recommendations for better regulation, policy review and action planning for the selected provisions of the Kosovo Law on Gender Equality was the scope of the assignment to be conducted by a consultant, senior legal expert, engaged in the framework of "Institutional Empowerment of the Agency for Gender Equality and Gender Mechanisms" project funded by SIDA and implemented by the Consortium Niras & DADA6.

Based on these findings, the consultant would make relevant technical recommendations for the implementation of the ex-post evaluation findings. Further, as part of the evaluation report, the consultant would design an instrumental proposal with a step-by-step process and principles that will guide the LGE monitoring framework and the activities to be undertaken later on by the Agency and the project in question.

For conducting this assignment, the consultant was required to work with and under the guidance of AGE senior management and in close communication with the AGE Division of Legal Affairs. The first task was the review of the data collected and processed through the ex-post questionnaire used by AGE staff in their practice. While structuring the ex-post evaluation report and drawing the proposed outline, the consultant would have to consult the Kosovo Government Guidelines on Ex-post Evaluation of legislation in the Republic of Kosovo and propose the report outline. The draft evaluation report would

need AGE review and approval prior to attaining the final form. In turn, the consultant would need to include in the final draft of the evaluation report all comments and recommendation made by AGE staff. The consultant was also asked to conduct an orientation workshop for the LGE Ex-post Evaluation Working Group and all identified stakeholders who are involved in the decision-making process for the incorporation of the ex-post evaluation recommendations, with the intention to build a sustainable practice in monitoring the progress of implementation of legal and policy framework on gender equality in Kosovo.

As noted above, the key task of the assignment was to produce the report based on the data gathered through the questionnaires and interviews held with the AGE staff, with a special focus on the following Article of the LGE.

By October 2016, the Agency for Gender Equality agreed to evaluate the following components expressed through the Articles of the LGE, subject of the evaluation report to be prepared by the consultant:

a) Gender-disaggregated statistics,

Article 5 General measures to prevent gender discrimination and ensure gender equality

1. In order to prevent and eliminate gender discrimination and achieve gender equality, Republic of Kosovo Institutions which include bodies at all levels of legislative, executive, judicial and other public institutions shall be responsible to implement legislative and other measures including:

1.1. Analysing the status of women and men in the respective organization and field;

1.8. Gender division of all data and collected statistical information shall be recorded, registered, processed and shall be obliged to submit these data to the Kosovo Agency of Statistics.

b) Gender-responsive budgeting,

Article 5 General measures to prevent gender discrimination and ensure gender equality

1. In order to prevent and eliminate gender discrimination and achieve gender equality, Republic of Kosovo Institutions which include bodies at all levels of legislative, executive, judicial and other public institutions shall be responsible to implement legislative and other measures including:

1.5. Inclusion of gender budgeting in all areas, as a necessary tool to guarantee that the principle of gender equality is respected in collecting, distribution and allocation of resources;

Article 8 Functions and responsibilities

1. The Agency within its scope has the following responsibilities:

1.4. Participates in the preparation of laws, sub-legal acts, strategies, and programs to ensure gender mainstreaming and gender budgeting is applied.

1.8. Organizes training for the inclusion of gender mainstreaming and gender budgeting for institutions;

Article 12 Relevant officials for Gender Equality in Ministries and Municipalities

2. Duties and responsibilities of the relevant officials for gender equality should include:

2.2. Inclusion of gender mainstreaming and budgeting in drafting and implementation of policies;

c) Organizational functioning of the Agency:

Article 7 Agency for Gender Equality

Agency for Gender Equality is an Executive Agency (hereinafter the Agency, which acts within the Office of the Prime Minister (OPM).

Article 9 Agency Organization

1. The Agency is led by Chief Executive who is responsible for the administration, operation and management of the Agency.

2. The appointment, discharge, functions and responsibilities of the Chief Executive shall be accomplished in accordance with the relevant provisions in force the Republic of Kosovo.

3. Organization, structuring and functioning of the Agency shall be regulated by sub-legal act proposed by the Agency and approved by the Government.

Article 10 Financing

1. Funds for operation of the Agency on Gender Equality shall be provided from the budget of the Republic of Kosovo.

Article 11 Kosovo Program for Gender Equality

1. Agency on Gender Equality shall coordinate the preparation of the Kosovo Program on Gender Equality, monitor its implementation and report annually to the Government on its implementation.

d) Establishment of institutional gender mechanism:

Article 7 Agency for Gender Equality

Agency for Gender Equality is an Executive Agency (hereinafter the Agency), which acts within the Office of the Prime Minister (OPM).

Article 11 Kosovo Program for Gender Equality

1. Agency on Gender Equality shall coordinate the preparation of the Kosovo Program on Gender Equality, monitor its implementation and report annually to the Government on its implementation.

2. Government shall review and approve the Kosovo Program on Gender Equality and should report annually to the Assembly for its implementation.

Article 12 Relevant officials for Gender Equality in Ministries and Municipalities

1. All Ministries and Municipalities shall be obliged to appoint the relevant officials for gender equality with sufficient professional capacity and allocate sufficient resources from the budget, to coordinate implementation of the provisions of this law.

Article 13 Ombudsperson

Ombudsperson is an equality institution that handles cases related to gender discrimination, in accordance with procedures established by the Law on Ombudsperson.

Article 14 Political parties

Political parties with their acts are obliged to implement measures to promote equal participation of men and women at authorities and bodies of the parties in accordance with provisions of Article 6 of this Law.

e) Equal representation and participation of women.

Article 5 General measures to prevent gender discrimination and ensure gender equality

1. In order to prevent and eliminate gender discrimination and achieve gender equality, Republic of Kosovo Institutions which include bodies at all levels of legislative, executive, judicial and other public institutions shall be responsible to implement legislative and other measures including:

1.4. Ensuring that the selection, recruitment and appointment processes, including for leading positions, are in line with the requirement for equal representation of women and men;

1.6. Allocating adequate human and financial resources to programs, projects and initiatives for the achievement of gender equality and women's empowerment;

Article 6 Special measures

1. Public institutions shall take temporary special measures in order to accelerate the realization of actual equality between women and men in areas where inequities exist.

2. Special measures could include:

2.1. Quotas to achieve equal representation of women and men;

2.2. Support programs to increase participation of less represented sex in decision making and public life;

7. Legislative, executive, judicial bodies at all levels and other public institutions shall be obliged to adopt and implement special measures to increase representation of underrepresented gender, until equal representation of women and men according to this Law is achieved.

8. Equal gender representation in all legislative, executive and judiciary bodies and other public institutions is achieved when ensured a minimum representation of fifty percent (50%) for each gender, including their governing and decision-making bodies.

Article 14 Political parties

Political parties with their acts are obliged to implement measures to promote equal participation of men and women at authorities and bodies of the parties in accordance with provisions of Article 6 of this Law.

Article 16 The prohibition of gender discrimination in social security schemes at work

2. There shall be no direct or indirect discrimination on grounds of sex in all occupational social security schemes, in particular as regards:

2.2. fixing the compulsory or optional nature of participation in an occupational social security scheme;

During the accomplishment of the respective duties, the working group faces challenges and difficulties

- ÷ The lack of an adopted methodology, especially for the specifics of the Law on GE, should be noted as a main challenge. During the process of reviewing and consulting documents for the production of the ex-post evaluation report, there was no methodology for conducting this evaluation process. Although there are official guidelines for carrying out ex-post evaluations, it should also be considered that each law is specific and a clear methodology should be developed, in accordance with the nature of the law and the nature of the assessment. Such a precondition has been observed particularly while conducting analyses to determine the intensity of the gender equality deficit in the fields of public policy and, moreover, is reinforced literally in the official roadmap on assessing ex post regulatory impact by emphasizing that “The methodology determines the general framework regulating the assessment of legal provisions

and/or laws. By nature it is standardized and systematic. However, the scope of the current analysis should be aligned with the law under consideration." This gap has severely affected the process, as it remained unclear what kind of ex-post evaluation would need to be done. While the official guidance identifies three types of ex-post analysis, namely, of the process, of the results, of the impact, it can be confirmed that the questionnaire was drafted on the basis of instructions to perform three tests: that of compliance, performance and functions/impact. However, the questions raised in the questionnaire for data collection that relate to the three tests do not appear to fit to the list with the test criteria as identified in the guideline. The questionnaire has a poor structure with a list of target institutions rather than a test-focused scheme⁸ or a thematic division that addresses specific articles of the Law on GE and related questions as advised by the guideline. In the realized questionnaire, the questions are incorrectly formulated, by leading to unclear, inaccessible and generic statements by the respondents. The questionnaire does not make clear references to the specific indicators of the process, compliance and impact, included in the relevant law and within its policy, namely the Kosovo Program for Gender Equality. Therefore, it can be concluded that inadequate questions and poor structure of the questionnaire imposed doubts on the accuracy of the collected data and significant degree of difficulties in measuring compatibility, impact and performance, as well as issuing of useful recommendations. Lack of clear methodology and ongoing assistance for the Ex-Post Working Group and the Agency as the lead institution of this process, a task that is monumental also for sophisticated and well-developed public administration institutions and with sufficient domestic expertise in the developed countries, should be highlighted as the main contributing factor that has damaged and influenced the quality of the questionnaire.

- ÷ There was no ex-ante evaluation of the Law on GE. It was not conducted any ex-ante evaluation of the Law on GE. That is why the goals, objectives and performance indicators were not clearly articulated initially. The baseline values of the indicators were not set either. Ideally, the ex-ante evaluation contains a number of goals, objectives and performance indicators, through which progress is measured, as well as the baseline values in which are compared the impact effects.

⁸ As proposed in page 27 of the Official guidance on ex-post regulatory impact assessment.

- ÷ Lack of clear timeline for data gathering. A particularly disrupting weakness in data collection was incoherence occurred in excessive and different timeline institutional respondents chose to provide data for questions listed in the questionnaire. On the other hand, AGE was informed very late about the program of ex-post evaluation of the Law on GE and about the support and engagement required by its staff. The process was indeed affected by such shortcomings among various stakeholders involved in the process.
- ÷ Lack of resource support. AGE and other relevant stakeholders received no prior or ongoing technical support, although they had no previous training or understanding on ex-post evaluation, added this to lack of knowledge and general practice on evaluating policy frameworks in Government of Kosovo.
- ÷ Data and information was collected and processed using the instrument, as suggested by OSCE during the orientation stage on ex-post impact assessment. The process reflects a very strong need for intervention and improvement of institutional and human capacity in data collection, programmatic and strategic monitoring, and moreover in the collection of sex-disaggregated data. These ex-post and data collection took place in a situation of AGE's insufficient human resources. Between the time period of the ex-post, October 2016 to September 2017, AGE experienced the worst staff shortage and therefore, they could not act in proactive manner and conduct visits to the target institutions and exercise pressure to them to submit the data. It seems that the ex-post initiative is taken so that such multi-dimensional evaluation processes require additional resources, both human and financial, and cannot be carried out as "ordinary work" or as additional daily task of AGE staff. In addition, during the data collection process, AGE could not observe or implement with due diligence the data collection process and to control the quality of the data submitted by other institutions. It seems that during the process, AGE was not provided with guidance on this issue and it should be noted that quality assurance in data collection cannot be treated as an additional task for existing staff but requires specialized and well-trained human resources, which AGE did not possess at the time of implementing this ex-post evaluation. This affected both the quantity of the data gathered and the quality of it, which automatically affected the results of this assessment and subsequently of the report. Despite the continued assistance, provision of additional resources, efforts made by the legal office of AGE to maintain

communication channels with all targeted line institutions, these steps result in reluctance, non-exhaustive answers/statistics as required by the questionnaire, law and improper understanding of the standards of the law of GE by the staff of the targeted institutions. Consequently, the ex-post runs the risk of not including and reflecting upon all activities and actions undertaken or not in real life, but instead only those reported and for which the information was provided and made available to the AGE team and later on to the consultant.

- ÷ Last but not least, in view of Kosovo strategic commitments at European level, the EU Integration process has a particular impact on the Kosovo institutional environment as it required introduction of many new regulations. The ex-post impact assessment of the Law on GE covers a specific period of development of the AGE and other related institutions, notably their transition within Stabilisation and Association process. An adjustment has to be made of a great number of regulatory tools, stemming from Kosovo's legislation approximation with *acquis communautaire*. It is well known that the EC requirements play a significant role on the amount of the administrative costs. However, there is a strong pressure and growing demand for optimizing the role of the public administration in ensuring equality and equal access to information for citizens. During the analysed period, only few institutions reported required data on GE Law implementation. This reflects not only low level of awareness on gender equality policy/legal framework but also confirms a prominent risk on institutional responsibility and governance, rule of law as well as public administration attitude on priorities 'outside' the sector.

For reasons quoted above, the assessment process from the beginning faced the lack of ownership, by hindering participation in analysis, drawing of recommendations and priority setting. Therefore, hiring of the consultant was conducted only to produce an ex-post assessment report with credible findings and feasible recommendations.

1.3 Structure of the Report

In Chapter II of the report is presented the context of the ex-post assessment of the Law on GE. It defines the policy framework, goal and objectives of the LGE and it presents a set of indicators used for measurement. The first subsection provides additional analyses on government measures for ensuring gender equality standards within its institutional

setting, various institutional and thematic initiatives. The second subsection presents status and dynamics of outcome indicators. This section depicts the findings of the ex-post impact assessment focused on specific Articles of the Law on GE. The chapter combines quantitative and qualitative methods for the analysis. The supplementary qualitative methods are based on: (i) a questionnaire with line institutions and relevant key stakeholders on the accomplishment of the goal, objectives and main tools for attaining the objectives of Law on GE, and (ii) EC 2017 progress report on implementation of SAA process. Based on the ex-post impact assessment of the Law on GE, the final Chapter III redefines the main problem, discusses underlying drivers and effects of the problem and proposes a framework for effective and participatory monitoring of the Law on GE and its policy framework, as well as it draws key final recommendations to improve the Law on GE in three particular areas: instrumental, institutional and social.

02

EX-POST ANALYSIS

2.1 Context of the Ex-post Analysis

The process on ex-post impact assessment of the Law on Gender Equality was initiated by the Legal Office of the Office of Prime Minister of Kosovo, with the support of the OSCE Mission in Kosovo. However, the process remained incomplete as it was limited to an introductory/orientation stage addressed to AGE on importance, usefulness and usability of data gathered and analysed to support impact analysis on a given piece of legislation. In spite of the planned orientation of AGE staff, it was decided by the same office and within the concerned technical assistance framework, to include the Law on GE in the respective list of laws [primary legislation] that would serve as a piloting list of laws to be assessed i.e. to measure their implementation impact after entry into force i.e. ex-post assessment.

The ex-post assessment is a rather new practice in Kosovo. New initiatives of such dimensions, though laudable in their scope could yield little or no results if preparatory work has not taken place to prepare the ground for an ex-post evaluation. Normally, ex-post initiatives will require as a precondition, the establishment of monitoring and evaluation systems, tools and the development of the capacities of those in charge for conducting such initiatives. At the time when this ex-post activity was initiated, no monitoring systems and data gathering tools were developed and established by the OPM or other institutions. Nor, ex-post skills and knowledge capacity development activities were provided to Kosovo public administration entities that were expected to conduct an ex-post activity

By July 2014, the Office of Legal Affairs in the OPM had developed the *Guidelines on Ex-post evaluation of legislation in the Republic of Kosovo*, "...designed to support officials of public institutions, as well as all stakeholders (the public and private stakeholders involved in the implementation process) throughout the Ex-post evaluation process."⁹

As stated in Article 8 of the Law on Gender Equality, on Functions and responsibilities of AGE, the respective law grants substantial authority to the Agency for Gender Equality to monitor its implementation and propose and promulgate regulations that ensure the full-fledge implementation of the law, through the following provisions:

⁹ *Guidelines on Ex-post evaluation of legislation in the Republic of Kosovo* p.9

#8.1. [AGE] promotes, supports, coordinates and makes the implementation of the provisions of this law and sub-legal acts issued in accordance with this law;

#8.2. [AGE] proposes to the Government amendments/supplementations of laws and sub-legal acts, and the approval of other measures to implement this law, in accordance with applicable legal procedures;

To this point, as common procedure requires, a consent and opinion of the Agency should have been received prior to the initiation of the ex-post regulatory impact assessment process. Instead, during the meeting of the consultant who authored this assessment report with the Agency staff, it was revealed that the Agency was rather served with the decision to conduct the ex-post activity on the LGE without its prior knowledge and consent. Further, the decision to conduct the ex-post assessment of the LGE seems to have missed at the time other substantial elements that are worth emphasising:

- a) The ex-post was initiated within 15 months after the approval of the LGE, and while the secondary legislation was not yet approved. No clear indication that a regular process of data collection on gender equality programme, as required by the concerned law was in place. Moreover, there are particular OECD¹⁰ standard indicators an effective and realistic assessment should seek to address within a time-frame that allows for decency in institutional attitude and accuracy of data. The following describes a general practice questions to be answered as part of an impact analysis, in order to measure the aforementioned standard indicators:

Box. 1: Process oriented and substantive outcomes of a regulatory policy.

Administrative [process-oriented]

- ÷ *How long does it take to implement regulations in terms of staff time or chronological time (start-to-finish)?*
- ÷ *How much does it cost government to implement regulations (monetary costs, proportion of budget, number of staff, proportion of staff, etc.)?*
- ÷ *Do regulators produce regulations that minimise subsequent disputes or litigation?*

¹⁰ 'Measuring regulatory performance: Evaluating the impact of regulation and regulatory policy' by Cary Coglianese, Expert paper no. 1, OECD, August 2012.

Democratic [process – oriented]

- ÷ *How many members of the public participate in regulatory decision making?*
- ÷ *How meaningful is that participation (e.g., quality of comments, impact of comments)?*
- ÷ *What is the level of public support for or perceived legitimacy of the regulation?*

Technocratic [substantive]

- ÷ *How effective is the regulation in solving the problem it was designed to address (e.g., health, environment, financial risk management, etc.)?*
- ÷ *What is the quality of the scientific analysis underlying the regulation?*
- ÷ *To what extent do regulated entities comply with the regulation?*

Economic [substantive]

- ÷ *How cost-effective is the regulation?*
- ÷ *How efficient is the regulation (i.e., what are its net benefits)?*
- ÷ *What are the impacts of the regulation on the overall economy (e.g., jobs, competitiveness, innovation)?*

Within given period i.e. 18 months passed from adoption of new law on gender equality it is not possible to respond accurately to those standard questions. Adding this to incomplete secondary legislation, lack of monitoring system on GE programme and respective qualitative data collection, it may be assertively concluded that the ex-post was not appropriately planned. Additionally, the aforementioned questions lead to a conclusion that the timeline suggested for conducting an ex-post assessment is unreasonable.

- b) As stated above, when the ex-post was initiated the secondary legislation had yet to be approved. The approval of the secondary legislation in this case bears great importance given that it dealt with the organizational and institutional structure of the Agency for Gender Equality and gender mechanisms in line ministries and municipalities. It should be noted that while the new Law on Gender Equality was being drafted, many line ministries and municipalities chose arbitrarily to reorganize the positions and tasks of the Gender Equality Officers at their organizational structures. This arbitrary move further destabilized the already

weak institutional structure of the GEOs and the decline of their authority. As this assessment reports was being written, the GEOs' position in line ministries and municipalities has not improved considerably and their organizational position has yet to comply with the law requirement. It is useful to note that the respective regulation¹¹ for the Gender equality officers in line ministries and municipalities of Kosovo was approved on 16.09.2016.

- c) During the period researched 2016-2017 the political situation in Kosovo was characterized by a severe institutional stagnation tangled with complex issues such as decelerated Kosovo – Serbia dialogue, parliamentary crisis related to proposed agreement for border dispute between Kosovo and Montenegro, post-election governance crisis, and recent talks on War Crimes Court.

These are some considerations to weaken at a very significant scale the institutional dynamics on gender equality policy discourse and implementation.

2.2 Findings and Recommendations

Struggling to conduct a reflective and consistent analysis of GE Law impact, considerable part of the process was focused on what the current RIA practice will help us to achieve. Having in consideration the 18 month 'immature age' of GE Law and incomplete set of by-laws, deficiency of ex-ante impact analysis and the associated ambiguous correlation between current law and the previous one approved by UN Mission in Kosovo, a question whether to analyse the whole law or part of it was raised, initially to keep costs of such analysis to a most reasonable level possible. Second reason for having a particular focus, and the foremost one is related to the thematic –nature or index-focus of impact analysis on gender equality regulatory framework. To this extent, the aforementioned articles are not a simple quantifiable set of provisions, selected to measure somehow how the targeted law is being implemented, despite a very short time passed since its promulgation, and saving resources by filtering a percentage of outcomes. These articles indicate strategic priorities of the concerned law and related policy document. Additionally, in most recent similar practice examples, gender equality impact analysis across Europe is measured

¹¹ Regulation (GRK) no. 12/2016 on duties and responsibilities of relevant officials for gender equality in ministries and municipalities of Kosovo [enacted by Government Decision no. 02/109, on 16th September 2016].

against: mainstreaming, responsive education, and responsive budgeting, effective institutional mechanisms/setting, leadership and participation indicators or complex indicators. Importantly enough, in 2013 the United Nations Statistical Commission (by decision 42/102) approved the Minimum Set of Gender Indicators, a collection of 52 quantitative indicators and 11 qualitative indicators addressing relevant issues related to gender equality and/or women's empowerment, as a guide for national production and international compilation of gender statistics. In absence of a proper ex-ante impact assessment analysis for the GE Law and relevant associated outcome indicators, the specific articles beside the current national set of gender priorities reflect at a very significant scale the index level of compliance to international standards set by UN Statistical Commission, and thus they build a solid ground for including Kosovo gender related data in prominent comparative research praxis. In formal terms, in view of domestic standards the respective ex-post regulatory impact analysis guideline, approved and published by government, allows for partial assessment of a certain law i.e. thematic/indicator – based analysis, in those circumstances when:... *'It may be more desirable to address particular implementation issues laid down in one or few provisions, or to address one particular issue of one piece of legislation'*¹².

The following is a summarised description of main findings from the assessment of available data and associated recommendations framed under components entailed and regulated by specific articles of the Law on GE.

¹² Guidelines on Ex-post evaluation of legislation in the Republic of Kosovo, paragraph 41, page 19 [English version], approved and published by Government of Kosovo / Office of Prime Minister, Prishtina, July 2015.

a) Statistics divided by gender		Findings	Recommended actions
	Article 5 General measures to prevent gender discrimination and ensure gender equality		
	1. In order to prevent and eliminate gender discrimination and achieve gender equality, Republic of Kosovo Institutions which include bodies at all levels of legislative, executive, judicial and other public institutions shall be responsible to implement legislative and other measures including:	F.1 The questionnaire applied by AGE cannot be considered as a sufficient tool to measure the level of fulfilment of these responsibilities. Questions are of a generic nature and in an unstructured form when moving from institutional governance to policy implementation.	R.1 A monitoring framework is recommended to measure the level of fulfilment of institutional responsibilities in the implementation of gender equality policy. In addition to cross-sectoral dimensions, the framework should include all levels of governance, as well as judicial and legislative competencies.
	1.1. analyzing the status of women and men in the respective organization and field;	F. 2 There is no clearly measurable and available evidence of how institutions carry out the required analysis. Answers given in the AGE questionnaire do not make any clear reference to the Law on GE when reporting measures and issues on equality. This indicates a low level of awareness of the target institutions on	R.2 The monitoring and reporting process, to be administered and regulated by AGE, should be based on indicators and objectives to measure progress and impact. Also, during the implementation of such a process, verifiable data sources need to be sought.

		the applicability of the binding provisions set out in the relevant law. The general nature of the questions asked limits the quality and accuracy of data analysis that AGE can perform as part of its program routine.	
	1.8. gender division of all data and collected statistical information shall be recorded, registered, processed and shall be obliged to submit these data to the Kosovo Agency of Statistics.	F. 3 Despite the gender-disaggregated data and relevant analyses published by KAS, the answers to the questionnaire reflect a major need for capacity development by addressing gaps in gender segregation in data collection and analysis.	R.3 The application of this provision requires the revision of secondary legislation, based on the Law on GE and the continuous development of relevant capacities that address the needs of civil servants in the collection and reporting of relevant statistics. AGE will have to cooperate with KAS or have at least effective communication channels so that research and publication becomes a practice rather than a project-based routine. Further development of the degree of cooperation between AGE and all target institutions is needed.
b c			

	Article 5 General measures to prevent gender discrimination and ensure gender equality		
	1. In order to prevent and eliminate gender discrimination and achieve gender equality, Republic of Kosovo Institutions which include bodies at all levels of legislative, executive, judicial and other public institutions shall be responsible to implement legislative and other measures including:	See F. 1	See R.1
	1.5. inclusion of gender budgeting in all areas, as a necessary tool to guarantee that the principle of gender equality is respected in collecting, distribution and allocation of resources;	F. 4 There is no gender budgeting practice that applies to the target institutions - respondent of the questionnaire. However, other efforts need to be developed and co-ordinated to build a community of practices. For example, some steps have already been taken towards divided data analysis as part of the mid-term expenditure framework review	R.4 Gender-responsive budgeting practice should be built by AGE through: a) regulation with secondary legislation; b) capacity development of targeted civil servants, GE officials at central and local level; c) Involvement of relevant indicators and objectives into the AGE framework for monitoring the Law on GE.

	[no. of grant/subsidy beneficiaries divided by gender]	
Article 8 Functions and responsibilities		
1. The Agency within its scope has the following responsibilities:		
1.4. participates in the preparation of laws, sub-legal acts, strategies, and programs to ensure gender mainstreaming and gender budgeting is applied.	F.5 Low level of awareness on the Law on GE, knowledge on the applicability of specific provisions confirm that, despite the level of communication between AGE and other institutions, significant improvements are required from AGE to consolidate its role and to act as the main actor of GE in the implementation of the functions and responsibilities established by law.	R.5 The AGE monitoring framework will serve initially to monitor the annual work plan of AGE. This will help to measure the performance of AGE, the results compared to the provisions of the Law on GE.
1.8. organizes training for the inclusion of gender mainstreaming and gender budgeting for institutions;	F.6 The questionnaire provides very limited data on training, without thematic provisions and of special service delivery, details of the beneficiary audience. Targeted institutions responded to questions on this particular issue only	R.6 To enable a sustainable practice of gender-responsive budgeting and gender mainstreaming, capacity-building activities, including training, should be regularly prepared and integrated into the AGE's work plan and the Kosovo Program on GE. In order to achieve better, qualitative

	<p>in quantitative terms. No specific training on gender-responsive budgeting and/or gender mainstreaming is reported in the questionnaire. The Kosovo Institute for Public Administration does not respond to the questionnaire.</p>	<p>results in designing, disseminating and responding to the needs of target groups, AGE should cooperate with a number of relevant institutions and programs at regional and European level such as EIGE, TAIEX, Council of Europe, UNESCO, Regional Co-operation Council, etc., to learn from previous practices. KIPA capacities should be further strengthened through technical and financial assistance to provide inclusive training on the Law on GE.</p>
Article 12 Relevant officials for Gender Equality in Ministries and Municipalities		
2. Duties and responsibilities of the relevant officials for gender equality should include:		
2.2. inclusion of gender mainstreaming and budgeting in drafting and implementation of policies;	<p>F.7 The answers to the questionnaire do not report clear evidence that gender mainstreaming and gender responsive budgeting are correctly understood and applied by line ministries and municipalities.</p>	<p>R.7 The practice of gender mainstreaming and gender responsive budgeting should be built by AGE through: a) regulation with secondary legislation; b) capacity building of targeted civil servants, GE officials at central and local level; c) incorporation of relevant indicators and objectives into the AGE framework</p>

			for monitoring the Law on GE.
c) Organizational functioning of the Agency			
	Article 7 Agency for Gender Equality		
	Agency for Gender Equality is an Executive Agency (hereinafter the Agency), which acts within the Office of the Prime Minister (OPM).		
	Article 9 Agency Organization		
	1. The Agency is led by Chief Executive who is responsible for the administration, operation and management of the Agency.		
	2. The appointment, discharge, functions and responsibilities of the Chief Executive shall be accomplished in accordance with the relevant provisions in force the Republic of Kosovo.		

	3. Organization, structuring and functioning of the Agency shall be regulated by sub-legal act proposed by the Agency and approved by the Government.	F. 8 Despite the existence of the relevant regulatory base, AGE faces human/financial resources restrictions, as confirmed by its management during consultations organized as part of this duty. These restrictions have had a significant impact on the performance and progress required in implementing the Law on GE and KPGE.	R.8 The joint consultative meetings with the OPM, the Ministry of Finance, donors working for GE, human rights, social inclusion in Kosovo and AGE management can be used as advocacy tools to increase accountability and availability of resources between decision-makers and donors. Analysis of the Situation and/or Institutional Mechanisms of AGE and GE may precede preparations and discussions in these meetings.
	Article 10 Financing		
	1. Funds for operation of the Agency on Gender Equality shall be provided from the budget of the Republic of Kosovo.	See F. 8	See R.8
	Article 11 Kosovo Program for Gender Equality		
	1. Agency on Gender Equality shall coordinate the preparation of the Kosovo Program on Gender Equality, monitor its implementation and report annually to the Government on its implementation.	F.9 As noted above, the questionnaire applied by AGE cannot be considered a sufficient tool to measure the level of accomplishment of either GE Law provisions or more specifically KPGE objectives and	R. 9 Progress reporting on KPGE should be integrally connected with GE Law monitoring network in order to obtain measurable results on achievement of KPGE objective. Moreover, this process should assist in structuring reports by informing on annual work-plans/ targets

		<p>targets. This relates not only to quality and effectiveness of the instrument, but it may be concluded that several sources of information and specific instruments are needed to track progress accurately. The low quality of responses provided in the questionnaire raise a reasonable doubt that AGE progress report lack substantial conclusions on KPGE results and impact.</p>	<p>of AGE, results in main public sectors and levels of governance.</p>
d) Establishment of institutional gender mechanisms			
	Article 7 Agency for Gender Equality		
	Agency for Gender Equality is an Executive Agency (hereinafter the Agency), which acts within the Office of the Prime Minister (OPM).		
	Article 11 Kosovo Program for Gender Equality		
	1. Agency on Gender Equality shall coordinate the preparation of the Kosovo Program on Gender Equality, monitor its	See F.9	See R.9

	implementation and report annually to the Government on its implementation.		
	2. Government shall review and approve the Kosovo Program on Gender Equality and should report annually to the Assembly for its implementation.	See F.9	See R.9
	Article 12 Relevant officials for Gender Equality in Ministries and Municipalities		

	<p>1. All Ministries and Municipalities shall be obliged to appoint the relevant officials for gender equality with sufficient professional capacity and allocate sufficient resources from the budget, to coordinate implementation of the provisions of this law.</p>	<p>F.10 The questionnaire's responses report no clear evidence on budget availability on KPGE implementation at particular institution, territory, and/or sector. Most of respondents are limited in informing appointments of GE Law officers. There is no clear evidence either, if there is a correct understanding of institutional accountability towards KPGE and GE Law. In some cases, appointed officials of GE are established in human resources departments, thus derogating from the purpose of position duties from planning, programming, advocacy in simple administrative work assignments.</p>	<p>R.10 Joint consultative meetings with line ministries, Ministry of Local Government Administration, Association of Municipalities, Regional Development Agencies, donors working on GE, human rights, social inclusion in Kosovo, and AGE management might be used as advocating tools for raising accountability and availability of resources amongst decision-makers and donors. A situation analysis/ briefing note on current progress of implementing KPGE may precede preparations and discussions in these meetings. The new gender equality program should also include a framework of goals and indicators to support monitoring of the progress of its implementation.</p>
	<p>Article 13 Ombudsperson</p> <p>Ombudsperson is an equality institution that handles cases related to gender discrimination, in accordance with</p>	<p>F.11 The questionnaire's responses by the respective institution report clear evidence on relevance between</p>	<p>R.11 AGE will need to conduct regular meetings [that may lead to an institutional partnership] with Ombudsperson in order to receive updated</p>

	<p>procedures established by the Law on Ombudsperson.</p>	<p>its functions and GE Law. There, the institution declares to have insufficient funding which is mainly used for priority needs and functions of the institution. Gender balance in personnel is reported to be in compliance with GE Law criteria on quota [Art 6.8]. The institution reports its priority on GBV and human trafficking as issues closely related to its functions and GE Law. No data is reported on gender-responsive budgeting or any further step taken in terms of gender mainstreaming in its work practice, with excuse of the limited finance resources.</p>	<p>information on GE Law – related infringement cases, but also to discuss with the respective party, issues related to institutional performance vis-à-vis GE Law criteria, undertakings of joint initiatives, programmes and advocacy campaigns on gender mainstreaming, gender-responsive budgeting. Part of these discussions should also be preventive measures, regular monitoring, gender-responsive policies and gender – responsive education as an expanded agenda of cooperation and partnership between two institutions.</p>
	<p>Article 14 Political parties</p> <p>Political parties with their acts are obliged to implement measures to promote equal participation of men and women at authorities and bodies of the parties in accordance with provisions of Article 6 of this Law.</p>	<p>F.12 The questionnaire's responses report no data from political parties of Kosovo. The instrument lacks in its research approach a differentiation between targeted respondents as per</p>	<p>R.12 Review of programmes of political parties, sitting in the parliament to observe: a) compliance with GE Law and KPGE; b) their political commitments, pledges towards women empowerment and relevant social inclusion issues; c) hate speech and</p>

		<p>their specificities. In the given case it is not clear if only parliamentary parties were addressed or all registered and participating subjects at the Central Election Commission. Women Network [an NGO] confirms in its responses to questionnaire that according to data made available to them, political parties lag behind in complying with GE Law and particular GE measures, such as quota in election, representation. Women network holds accountable on these identified gaps not only political subjects, but Central Election Commission as well.</p>	<p>justification of unlawful actions that affect gender equality in Kosovo.</p> <p>Capacity development workshops with members of municipal councils to address gender mainstreaming and gender-responsive budgeting in local decision-making.</p> <p>The exercise of gender-assessment of laws discussed, draft laws submitted at the parliamentary commission, initially applied with students of law and economics at University of Prishtina.</p>
e) Equal gender representation and participation	<p>Article 5 General measures to prevent gender discrimination and ensure gender equality</p> <p>1. In order to prevent and eliminate gender discrimination and achieve gender</p>		

equality, Republic of Kosovo Institutions which include bodies at all levels of legislative, executive, judicial and other public institutions shall be responsible to implement legislative and other measures including:

1.4. ensuring that the selection, recruitment and appointment processes, including for leading positions, are in line with the requirement for equal representation of women and men;

F.13 The questionnaire's responses provide very limited data on recruitment and appointments, including leading positions. No particular measures are foreseen or undertaken in several cases where equal representation is missing. Targeted institutions respond to questions on this particular issue in quantitative terms only. Their justification of compliance with standards refers only to the Law on Civil Service.

R. 13 Cooperation agreement with Ministry of Public Administration, KIPA and the Independent Oversight Board of Kosovo Civil Service and the Council on Senior Management Positions, to organise and monitor recruitment of civil servants in full compliance with GE Law.

AGE staff should be included in panels/procedures of selection/recruitment of high-level positions within Civil Service of Kosovo, undertaken by the Council on Senior Management Positions.

Training of officers on GE Law in line ministries in monitoring GE Law and Civil Service Law application in the workplace.

	<p>1.6. ensuring equal representation of women and men in all conferences, meetings, seminars and trainings inside and outside the country;</p>	<p>See F.6</p>	<p>See R. 6</p>
	<p>Article 6 Special measures</p> <p>1. Public institutions shall take temporary special measures in order to accelerate the realization of actual equality between women and men in areas where inequities exist.</p> <p>2. special measures could include:</p> <p>2.1. quotas to achieve equal representation of women and men;</p>	<p>F.14 Despite its limitations, the questionnaire's responses provide interesting data, although limited concerning 50% quota application. In most of the targeted institutions, this quota is not applied for several reasons. However, there are two major identified hindrances: a) when it comes to recruitment, procedures in most of the cases are referred and justified under</p>	<p>R. 14 Conduct a gender assessment of Civil Service Law application and impact at all levels of public administration with a particular focus on equality quota [Art 6.8];</p> <p>Cooperation agreement with Ministry of Public Administration, KIPA and Civil Service Commission to organise and monitor recruitment of civil servants in full compliance with GE Law.</p> <p>AGE staff should be included in panels /procedures of selection/ recruitment of high-level</p>

Civil Service law, where the principle of equal opportunities is balanced with meritocracy. *So we chose the best candidate according to CS Law and that happened to be a male*, the respondents affirm; b) there is an obvious lack of awareness and applied knowledge amongst institutional management actors on practical requirements of GE Law application in internal institutional governance, sectoral policies and related public services;

There are other gaps that add effect to these problems, such as insufficient human resources, inappropriate planning and lack of data, overlapping structures and weekly inter-institutional communication/cooperation.

A particularly confusing point stands with the provision itself when stating [cit]:

positions within Civil Service of Kosovo.

Training GE officials in line ministries in monitoring GE Law and Civil Service Law application in the workplace.

Propose a linguistic correction of clause in all official languages:

[Art 6.8]...is achieved when ensured a minimum representation of fifty percent (50%) for each gender ...

*[Art 6.8] ...is achieved when ensured that representation of **not less than** fifty percent (50%) for each gender...*

		<p><i>... is achieved when ensured a minimum representation of fifty percent (50%) for each gender.</i></p> <p>By articulating a 'minimum' the provision sustains a standard which is quantifiable.</p> <p>Therefore a maximum level of presentation can be interpreted as implicit, but it is missing in the giving provision, although it is an issue that should have been included in this provision.</p>	
	<p>2.2. support programs to increase participation of less represented sex in decision making and public life;</p>	<p>F.15 As confirmed by the data collection and described in Annex 1¹³, the gender equality standard, namely Article 6.8 of the Law on GE, continues to be disadvantageous in the civil service. In 2015, only 5.2% or 3 out of 58 senior management positions in the Government were led by women¹⁴, while in terms of total senior</p>	<p>R.15 AGE should take a leading role in coordinating all programmes that are undertaken at national level and in compliance with this particular article or GE Law in general. To achieve this, AGE needs to review all current national initiatives that cross-cut with GE Law goals, meet with implementing actors of those programmes and build synergies that assist monitoring framework of GE Law and KPGE/</p>

¹³ Annex 1: Quantitative data for women in senior/ leadership positions in public administration in Kosovo

¹⁴ Women's participation in decision-making in Kosovo - Kosovar Gender Studies Center (KGSC), Prishtina, January 2017

	<p>management positions, 26.1% or 301 out of 1155 positions were led by women. It is worth noting that women held senior management positions in only three ministries.</p> <p>The respondents to questionnaire confirm that no financial and human resource allocation is made to support required measures or programmes to be undertaken by public institution. The questionnaire's responses provide clear evidence that action-planning in virtue of GE Law and KPGE is either non-applicable or very limited (participation in sponsored trainings/workshop) at line ministries and municipalities. The respondents gave lack of funding and insufficient staff to justify such shortcomings.</p>	<p>identification of critical/urgent issues and establish new advocacy /developmental interventions.</p> <p>AGE will need also to improve significantly its communication to public, by engaging media as a partner, and not as a provider, in delivering message, tackling inequalities, GBV, and promote GE champions in diverse sectors, institutions and communities across Kosovo.</p>
7. Legislative, executive, judicial bodies at all levels	F.16 Despite the legislation adopted, the extension of the	R.16 AGE should put in use/action oversight mechanisms and

	<p>and other public institutions shall be obliged to adopt and implement special measures to increase representation of underrepresented gender until equal representation of women and men according to this Law is achieved.</p>	<p>institutional gender composition, the available assistance and the active role of NGOs and networks in advocating gender equality in Kosovo, legislative, executive, judicial bodies at all levels and other public institutions provide much limited data in response to the questionnaire, with regard to the adoption and implementation of specific measures. The need for special measures is real and in certain cases confirmed by institutions. Lack of action in most cases, when data is available, is justified by lack of means. However, even the best performing institution according to the responses presented, do not have data on gender-responsive budgeting or relevant gender mainstreaming practices. Lack of regulatory guidelines on gender-responsive policies can hinder the successful implementation of those special</p>	<p>instruments to observe the targeted institutions' performance, activity compliance with the respective law and disaggregate gender data from their performance outcomes. In doing so, AGE will need to establish cooperation practice with oversight institutions like General Supreme Audit Office, the Kosovo Judicial Council, the Prosecutor's Office, the Anti-Corruption Agency of Kosovo, the Academy of Justice, the Media Council, the Competition Authority etc.</p> <p>A strong partnership with local media and community of journalists is required to continuously inform the public how GE Law is applied by public institutions and public sector operators.</p> <p>Each year, AGE may choose to publish the progress made by institutions and public sector actors in implementing special measures, congratulating champions and advocating change.</p>
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		measures required by the Law on GE.	
	8. Equal gender representation in all legislative, executive and judiciary bodies and other public institutions is achieved when ensured a minimum representation of fifty percent (50%) for each gender, including their governing and decision-making bodies.	See F.14	See R.14
	Article 14 Political parties Political parties with their acts are obliged to implement measures to promote equal participation of men and women at authorities and bodies of the parties in accordance with provisions of Article 6 of this Law.	See F.12	See R.12
	Article 16 Prohibition of gender discrimination in social security schemes at work 2. Provisions contrary to the principle of equal treatment shall include those based		

	<p>on sex, either directly or indirectly, for:</p> <p>2.2. fixing the compulsory or optional nature of participation in an occupational social security scheme;</p>	<p>F. 17 The AGE questionnaire does not include responses from Ministry of Labour and Social Welfare. According to KAS ¹⁵, participation in the labour force in 2017 was 43.0 %, where the number of females belonging to the labour force was 20.0 % and 65.7 % was for males. In 2017, in Kosovo, 46.8 % of males of working age were employed compared to 12.7 % of females of working age. The same source reads: "When asked if they had their rights in their main job, to benefit from social security scheme at work, the survey data showed that only 5.2% of employees had this right". This particularity is for the law to treat workers of each gender in high scale of vulnerability.</p>	<p>R.17 On the other hand, all relevant institutions, the Ministry of Labour and Social Welfare, the Ministry of Health, the Ministry of Trade and Industry, the Ministry of Economic Development will have to incorporate gender mainstreaming/perspective into the planning/decision-making process. AGE should play a leading role not only in coordinating the program for GE, but all programs that have been undertaken at the national level focusing on women's social-economic rights, empowering women in rural areas, security in work etc. To achieve this, AGE needs to review all current national initiatives that cross-cut with the above mentioned issues and women welfare in general, meet with Ministry of Labour, Labour Inspectorate and implementing actors of relevant programmes and build synergies that assist monitoring framework of GE Law and KPGE/</p>
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¹⁵ Labour Force Survey Q2 – 2017, Series 5: Social Statistics, Kosovo Agency of Statistics, Prishtina, October 2017.

		identification of critical/urgent issues and establish new welfare advocacy interventions. The Government should allocate sufficient funds and resources to assist in gender mainstreaming in line ministries and the implementation of the GE Program
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3.2.2 Paketa e propozuar e treguesve për monitorimin e ligjit për BGJ

a) Gender disaggregated statistics	Articles/ provisions as listed in Law text	Verifiable Indicators	Data sources
	Article 5 General measures to prevent gender discrimination and ensure gender equality		
	<i>1. In order to prevent and eliminate gender discrimination and achieve gender equality, Republic of Kosovo Institutions which include bodies at all levels of legislative, executive, judicial and other public institutions shall be responsible to implement legislative and other measures including:</i>		
	1.1. Analysing the status of women and men in the respective organization and field;	<ul style="list-style-type: none"> ▪ Level of comprehensiveness, coherence, frequency and availability in public domains and official languages of published data / progress reports/ situation analysis; ▪ Number, typology and levels of positions attained by women employed in public administration at central and local level; 	AGE, line ministries, KAS, Department for Civil Service Administration/MPA, Kosovo Police, District Courts, municipalities, UP, Kosovo Chamber of Commerce, NGOs, media (list may be expanded as needed).
	1.8. Gender division of all necessary statistical data	<ul style="list-style-type: none"> ▪ Level of comprehensiveness, 	AGE, line ministries, KAS, media, District

	that is collected, registered, processed and shall be obliged to submit these data to the Kosovo Agency of Statistics.	coherence, frequency and availability in public domains and official languages of published data;	Courts, Civil Service Commission, municipalities, UP, Kosovo Chamber of Commerce, NGOs.
b) Gender responsive budgeting			
	Article 5 General measures to prevent gender discrimination and ensure gender equality		
	<i>1. In order to prevent and eliminate gender discrimination and achieve gender equality, Republic of Kosovo Institutions which include bodies at all levels of legislative, executive, judicial and other public institutions shall be responsible to implement legislative and other measures including:</i>		
	1.5. Inclusion of gender budgeting in all areas, as a necessary tool to guarantee that the principle of gender equality is respected in collecting, distribution and allocation of resources;	<ul style="list-style-type: none"> ▪ Number of gender responsive budgeting practices and/or similar funding instruments to comply with GE Law objectives, and relevant strategic goals set in international and European policy/legal framework applicable in Kosovo context; ▪ Number of secondary legislation acts that affects GE Law implementation, enacted; 	AGE, Government Coordination Secretariat, GE officials at central and local levels, Office of Good Governance, Ministry of Finances, Legal office at OPM, municipalities, line ministries, NGOs.

Article 8 Functions and responsibilities		
<i>1. The Agency within its scope has the following responsibilities:</i>		
1.4. participates in the preparation of laws, sub-legal acts, strategies, and programs to ensure gender mainstreaming and gender budgeting is applied.	<ul style="list-style-type: none"> ▪ Number of sector-based strategies and action plans on gender equality; ▪ Number of legislation review practices to comply with GE Law objectives, and relevant strategic goals set in international and European policy/legal framework applicable in Kosovo context; ▪ Number of secondary legislation acts that affects GE Law implementation, enacted; ▪ Number of capacity development activities, programmes and campaigns planned; 	AGE, Government Coordination Secretariat, Office of Good Governance, GE officials at central and local levels, Ministry of Finances, Legal office at OPM, Ministry of Justice, municipalities, line ministries, NGOs.
1.8. Organizes training for the inclusion of gender mainstreaming and gender budgeting for institutions;	<ul style="list-style-type: none"> ▪ Number of capacity development activities, programmes and campaigns planned; ▪ Regular activity reports with sex-disaggregated data on % of men and women, participants from public institutions at central and local level; 	AGE, KIPA, Association of Municipalities, line ministries, judicial and other public institutions, NGOs
Article 12 Relevant officials for Gender		

	Equality in Ministries and Municipalities		
	<i>2. Duties and responsibilities of the relevant officials for gender equality should include:</i>		
	2.2. Inclusion of gender mainstreaming and budgeting in drafting and implementation of policies;	<ul style="list-style-type: none"> ▪ Number of sector-based strategies and action plans on gender equality; ▪ Number of secondary legislation acts that affects GE Law implementation, enacted; 	AGE, OPM, line ministries, municipalities, judicial and other public institutions, NGOs
c) Organizational functioning of the Agency			
	Article 7 Agency for Gender Equality		
	Agency for Gender Equality is an Executive Agency (hereinafter the Agency), which acts within the Office of the Prime Minister (OPM).	<ul style="list-style-type: none"> ▪ Accomplishment level in assigning staff and completing responsible units with appropriate infrastructure; ▪ Sufficiency level of financial resources; 	AGE, Department for Administration of Civil Service/MPA, Ministry of Finances.
	Article 9 Agency Organization		
	1. The Agency is led by Chief Executive who is responsible for the administration, operation and management of the Agency.		
	2. The appointment, discharge, functions and responsibilities of the Chief Executive shall be accomplished in	<ul style="list-style-type: none"> ▪ Number of secondary legislation acts that affects GE Law implementation, enacted; 	AGE, Ministry of Finances.

	accordance with the relevant provisions in force in the Republic of Kosovo.		
	<p>3. Organization, structuring and functioning of the Agency shall be regulated by sub-legal act proposed by the Agency and approved by the Government.</p>	<ul style="list-style-type: none"> ▪ Number of legislation review practices to comply with GE Law objectives, and relevant strategic goals set in international and European policy/ legal framework applicable in Kosovo context; ▪ Number of secondary legislation acts that affects GE Law implementation, enacted; 	AGE, Legal office at OPM, Department for Administration of Civil Service/MPA.
	Article 10 Financing		
	<p>1. Funds for operation of the Agency on Gender Equality shall be provided from the budget of the Republic of Kosovo.</p>	<ul style="list-style-type: none"> ▪ Accomplishment level in assigning staff and completing responsible units with appropriate infrastructure; ▪ Sufficiency level of financial resources; 	AGE, Ministry of Finances.
	Article 11 Kosovo Program for Gender Equality		
	<p>1. Agency on Gender Equality shall coordinate the preparation of the Kosovo Program on Gender Equality, monitor its implementation and report annually to the Government on its implementation.</p>	<ul style="list-style-type: none"> ▪ Number of sector-based strategies and action plans on gender equality; ▪ Number of policy/ legislation review practices to comply with GE Law objectives, and relevant strategic goals set in international and European policy/legal 	AGE, OPM, NGOs.

d) Establishment of gender institutional mechanisms		<p>framework applicable in Kosovo context;</p> <ul style="list-style-type: none"> ▪ Number of secondary legislation acts that affects GE Law implementation, enacted; ▪ Level of comprehensiveness, coherence, frequency and availability in public domains and official languages of progress reports; 	
	Article 7 Agency for Gender Equality		
	Agency for Gender Equality is an Executive Agency (hereinafter the Agency), which acts within the Office of the Prime Minister (OPM).	<ul style="list-style-type: none"> ▪ Accomplishment level in assigning staff and completing responsible units with appropriate infrastructure; ▪ Sufficiency level of financial resources; 	ABGJ-ja, Departamenti për Administrimin e Shërbimit Civil/MAP-ja, Ministria e Financave.
	Article 11 Kosovo Program for Gender Equality		
	1. Agency on Gender Equality shall coordinate the preparation of the Kosovo Program on Gender Equality, monitor its implementation and report annually to the Government on its implementation.	<ul style="list-style-type: none"> ▪ Number of sector-based strategies and action plans on gender equality; ▪ Number of policy/legislation review practices to comply with GE Law objectives, and relevant strategic goals set in international and European policy/legal 	AGE, OPM, Parliamentary Committee on Gender Equality and Human Rights, line ministries, municipalities, NGOs.

	<p>framework applicable in Kosovo context;</p> <ul style="list-style-type: none"> ▪ Number of secondary legislation acts that affects GE Law implementation, enacted; ▪ Level of comprehensiveness, coherence, frequency and availability in public domains and official languages of progress reports; 	
<p>2. Government shall review and approve the Kosovo Program on Gender Equality and should report annually to the Assembly for its implementation.</p>	<ul style="list-style-type: none"> ▪ Number of policy/legislation review practices to comply with GE Law objectives, and relevant strategic goals set in international and European policy/legal framework applicable in Kosovo context; ▪ Level of comprehensiveness, coherence, frequency and availability in public domains and official languages of progress reports; 	<p>AGE, OPM, Parliamentary Committee on Gender Equality and Human Rights, line ministries, municipalities, NGOs.</p>
<p>Article 12 Relevant officials for Gender Equality in Ministries and Municipalities</p>		
<p>1. All Ministries and Municipalities shall be obliged to appoint the relevant officials for gender equality with sufficient professional</p>	<ul style="list-style-type: none"> ▪ Number, typology and levels of job applications by women in public administration at central and local level; 	<p>AGE, line ministries, municipalities, Department for Administration of Civil Service /MPA,</p>

	capacity and allocate sufficient resources from the budget, to coordinate implementation of the provisions of this law.	<ul style="list-style-type: none"> ▪ Accomplishment level in assigning staff and completing responsible units with appropriate infrastructure; ▪ Sufficiency level of financial resources; 	MLGA, Association of Municipalities.
	<p>Article 13 Ombudsperson</p> <p>Ombudsperson is an equality institution that handles cases related to gender discrimination, in accordance with procedures established by the Law on Ombudsperson.</p>	<ul style="list-style-type: none"> ▪ Number of regulatory acts that affect the implementation of GE Law, enacted; ▪ Level of comprehensiveness, coherence, frequency and availability in public domains and the official languages of the situation analysis reports; ▪ Number of reported cases submitted at Civil Service Supervisory Commission, Ombudsperson on abuse and misconduct, other unlawful actions related to the provisions of GE Law, Civil Service Law, Anti-Discrimination Law; ▪ Number of capacity development activities, programmes and campaigns on gender equality and related issues, planned; 	Ombudsperson, AGE, NGOs.
	Article 14 Political parties		

Political parties with their acts are obliged to implement measures to promote equal participation of men and women at authorities and bodies of the parties in accordance with provisions of Article 6 of this Law.	<ul style="list-style-type: none">▪ Number, typology and levels of measures designed;▪ Number, typology and levels of measures implemented;▪ Compliance level of suggested measures with Kosovo programme on Gender Equality;▪ Sufficiency level of financial resources, allocated to implement suggested measures;▪ Number of capacity development activities, programmes and campaigns on gender equality and related issues, planned;	AGE, Central Election Commission, Assembly, NGOs
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e) Equal gender representation and participation			
	<p>Article 5 General measures to prevent gender discrimination and ensure gender equality</p> <p><i>1. In order to prevent and eliminate gender discrimination and achieve gender equality, Republic of Kosovo Institutions which include bodies at all levels of legislative, executive, judicial and other public institutions shall be responsible to implement legislative and other measures including:</i></p> <p>1.4. Ensuring that the selection, recruitment and appointment</p>	<p>▪ Number, typology and levels of applications/nominations/appointments of women in public administration at central and local level;</p>	<p>AGE, Department of Civil Service Administration/MP A, KAS.</p>

<p>processes, including for leading positions, are in line with the requirement for equal representation of women and men;</p>	<ul style="list-style-type: none"> ▪ Number, typology and levels of positions attained by women employed in public administration at central and local level; ▪ Number of regulatory acts that affect the GE Law implementation, enacted; 	
<p>1.6. Ensuring equal representation of women and men in all conferences, meetings, seminars and trainings inside and outside the country;</p>	<ul style="list-style-type: none"> ▪ Number, typology and levels of women applicants, participants from public institutions, at central and local level; ▪ Number of capacity development activities, programmes and campaigns on gender equality and related issues, participated and sex disaggregated data on participation; 	<p>AGE, KIPA, Gender Officers in line Ministries and Municipalities.</p>
<p>Article 6 Special measures</p> <p>1. Public institutions shall take temporary special measures in order to accelerate the realization of actual equality between women and men in areas where inequities exist.</p>	<ul style="list-style-type: none"> ▪ Number, typology and levels of measures designed; ▪ Number, typology and levels of measures implemented; ▪ Compliance level of suggested measures with Kosovo programme on Gender Equality; ▪ Sufficiency level of financial resources allocated to implement suggested measures; ▪ Number of capacity development activities, programmes and campaigns on gender equality and related issues, planned ; 	<p>AGE, line Ministries, Municipalities, District Courts.</p>

<p>2. <i>Special measures could include:</i></p> <p>2.1. quotas to achieve equal representation of women and men;</p>	<ul style="list-style-type: none"> ▪ Number, typology and levels of job applications & positions attained by women in public administration at central and local level; ▪ Frequent situation reports with sex-disaggregated data on % of men and women, workers in public administration at central and local level; ▪ Number of secondary legislation acts that affects GE Law implementation, enacted ; 	<p>AGE, Civil Service Commission, District Courts, Municipalities, Chamber of Commerce, NGOs, KAS .</p>
<p>2.2. support programs to increase participation of less represented sex in decision making and public life;</p>	<ul style="list-style-type: none"> ▪ Number of sector-based strategies and action plans on gender equality; ▪ Number of secondary legislation acts that affects GE Law implementation, enacted; ▪ Number of capacity development activities, programmes and campaigns on gender equality and related issues, planned; ▪ Geographical coverage level of gender equality action plans/ capacity development programmes at municipal level ; 	<p>AGE, KIPA, Gender Officers in line Ministries and Municipalities , NGOs,</p>
<p>7. Legislative, executive, judicial bodies at all levels and other public institutions shall be obliged to adopt and implement special measures to increase representation</p>	<ul style="list-style-type: none"> ▪ Number, typology and levels of measures designed; ▪ Number, typology and levels of measures implemented; ▪ Compliance level of suggested measures with Kosovo programme on Gender Equality; ▪ Sufficiency level of financial resources allocated to implement suggested measures; ▪ Number, typology and levels of job applications & positions attained by women in public administration 	<p>AGE, Academy of Justice, KAS, Ministry of Finance, District Courts, Municipalities, Assembly.</p>

	<p>of underrepresented gender, until equal representation of women and men according to this Law is achieved.</p>	<p>at central and local level after implementation of measures;</p> <ul style="list-style-type: none"> ▪ Number of gender responsive budgeting practices and/or similar funding instruments to comply with GE Law objectives, and relevant strategic goals set in international and European policy/legal framework applicable in Kosovo context; ▪ Number of capacity development activities, programmes and campaigns on gender equality and related issues, planned; ▪ Geographical coverage level of gender equality action plans at municipal level ; 	
	<p>8. Equal gender representation in all legislative, executive and judiciary bodies and other public institutions is achieved when ensured a minimum representation of fifty percent (50%) for each gender, including their governing and decision-making bodies.</p>	<ul style="list-style-type: none"> ▪ Number, typology and levels of job applications/ appointments & positions attained by women in public administration at central and local level; ▪ Number of capacity development activities, programmes and campaigns on gender equality and related issues, planned; ▪ Frequent situation reports with sex-disaggregated data on % of men and women, workers in public institutions at central and local level ; 	<p>KAS, AGE, Department of Civil Service Administration/MP A, MLGA, Media, Municipalities.</p>
<p>Article 14 Political parties</p>	<p>Political parties with their acts</p>	<ul style="list-style-type: none"> ▪ Number, typology and levels of measures designed; 	<p>AGE, Central Election</p>

are obliged to implement measures to promote equal participation of men and women at authorities and bodies of the parties in accordance with provisions of Article 6 of this Law.	<ul style="list-style-type: none"> ▪ Number, typology and levels of measures implemented; ▪ Compliance level of suggested measures with Kosovo programme on Gender Equality; ▪ Sufficiency level of financial resources allocated to implement suggested measures; ▪ Number, typology and levels of job appointments, positions attained by women in party administration at central and local level ; 	Commission, Assembly, NGOs.
<p>Article 16</p> <p>Prohibition of gender discrimination in social security schemes at work</p> <p><i>2. Provisions contrary to the principle of equal treatment shall include those based on sex, either directly or indirectly, for:</i></p>		
2.2. Fixing the compulsory or optional nature of participation in an occupational social security scheme;	<ul style="list-style-type: none"> ▪ Availability, frequency and sufficiency level of gender disaggregated data on participation in an occupational social security scheme; ▪ Number of infringement cases on participation in an occupational social security scheme, reported at ombudsperson, AGE, gender equality officials, human rights 	AGE, Ombudsperson, Ministry of Labour, Labour Inspectorate, NGOs

	<p>organisations, labour inspectorate, anti-corruption structures, and law enforcement authorities;</p> <ul style="list-style-type: none">▪ Number of gender responsive budgeting practices and/or similar funding instruments to comply with GE Law objectives, and relevant strategic goals set in international and European policy/legal framework applicable in Kosovo context;▪ Gender equality clauses included in Labour Law and associated relations in public and private sector in Kosovo ;	
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3.2.3 Lessons learnt

As a general rule, assessing impact of GE Law does not in itself determine decisions, but it provides empirical data that can clarify the options available to a decision-making process. It is a tool that can be used to transform stakeholders' understanding of what action is appropriate, and can help define the role of the modern public administration. This assessment practice that combines objectives on gender equality advocacy and better regulation can strengthen or weaken the positions of parties involved in a decision and their capacity to clarify standing points. Its ability to profoundly change the nature of a discussion is one reason why a regulatory impact assessment exercise remains controversial and difficult to implement. The following are two sets of advice provided as learnt lessons/principles from OECD, to assist a gender perspective review when discussing and implementing regulatory reform to improve governance and strengthen institutions.

Table: Applying a Gender Perspective to the OECD Principles¹⁶ for Regulatory Quality

OECD Principle	Gender Perspectives
1. Adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation .	1. Has a commitment to gender been incorporated at a high level into the regulatory reform, or is it an add-on (or absent from the agenda altogether)?
2. Assess impacts and review regulations systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment	2. Does the review process examine whether regulations have differential impacts on men and women and determine whether corrective measures are needed?
3. Ensure that regulations, regulatory institutions charged with implementation, and regulatory processes are transparent and non-discriminatory .	3. Are there opportunities for women to participate directly or indirectly through civil society groups and is there monitoring of actual participation ?

¹⁶ 'Measuring Regulatory Quality' OECD Policy Briefs, April 2008

4. Review and strengthen where necessary the scope, effectiveness and enforcement of competition policy.	4. Are there barriers to entry for women-owned firms overall or in government procurement?
5. Design economic regulations in all sectors to stimulate competition and efficiency, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interests.	5. Are there administrative requirements that, in addition to posing barriers to entrepreneurs generally, are especially cumbersome for women or are there areas where women's property or other rights are deficient in ways that impede business
6. Eliminate unnecessary regulatory barriers to trade and investment through continued liberalisation and enhance the consideration and better integration of market openness throughout the regulatory process, thus strengthening economic efficiency and competitiveness.	6. Do women face particular barriers in gaining access to credit or employment? Are there barriers to women's access to training, advisory services, or other activities that would strengthen their economic participation as employers and employees?
7. Identify important linkages with other policy objectives and develop policies to achieve those objectives in ways that support reform.	7. Are these and other gender linkages identified and are policy-makers encouraged to take them into consideration actively in forming policy?

Based on the above principles and deliberations, there are three areas that generally constitute priority concerns not only regulatory reform process and its outcomes, but foremost a pertinent gender mainstreaming practices. Each of these must be addressed in order to shape regulatory reform that responds to women's needs and to gender considerations. These areas and some of the main points in each area are summarized below:

Box 2. Priority Regulatory Reform Issues from a Gender Perspective ¹⁷

Regulations Generally Recognized as Affecting the Role of Women

Education: access, discrimination, priority;

Health and health issues: access to healthcare, family healthcare access, gender-specific concerns;

Workplace issues: gender in the workplace, access to training, equity of pay, forced labour/trafficking;

Family issues: rights of women as wives and mothers, divorce, violence;

The public sphere: limitations on appearance, behaviour, or presence of women outside the home, access to courts of law, political participation, and civil society;

Regulations Needing Increased Attention with Respect to Impact on Women

Property Rights;

Access to Capital;

Access to Non-Personal Government Services;

Participation in the Regulatory Process

Transparency: sufficient to create opportunities for participation;

Voice: public discussion sufficient to provide opportunities for input and raising of concerns, suggestions;

Accountability: reporting on outcomes sufficient to raise and address concerns in implementation;

¹⁷ 'Introducing Gender Analysis into Regulatory Frameworks' Position Paper by Dr. Jennifer Bremer, American University in Cairo, presented in 'ADDRESSING GENDER IN PUBLIC MANAGEMENT' Kick-Off Meeting of the Gender Focus Group 18 May 2009 Cairo, Egypt

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➤ 3.3 Final Recommendations

The overall recommendation this assessment report underlines is that additional efforts particularly by AGE, Ombudsperson, institutions and non-state actors working on human rights advocacy are needed to clarify concepts, design tools and methodologies and build capacity for gender mainstreaming within and outside the national mechanisms. Particular focus should be given to standard-setting and application within institutional governance at central and municipal level.

Targeted measures on improving positioning and performance of gender equality officers at municipal level need to be continued to overcome structural obstacles to gender equality law implementation.

Work in the area of legislation review, adaption to ensure measurable promotion of gender equality and effective implementation of relevant legislation should be expanded and enhanced to combat discrimination against women in all sectors.

Capacity for policy analysis and advice should be strengthened within and outside AGE to bring a gender perspective to all policy areas across the government. A multi-pronged effort including research, tools, and training is needed to enhance such capacity.

Collection of sex disaggregated data and statistics, development of methodologies and tools, and gender-specific research and analysis will need continuing promotion and support as they are essential for development of gender-responsive policies and actions. AGE should make greater efforts to ensure that existing data, statistics, research, tools and methods are used by different ministries and departments in their planning and budgetary allocation processes.

As part of a feasible and effective monitoring practice to be conducted by AGE, indicators should be developed to measure progress toward gender quality in a wide spectrum of areas. These indicators should be integrated into mainstream monitoring indicators of Kosovo government policy commitments i.e. EU integration/SAA, national development programmes etc.

Effective monitoring and evaluation systems (M&E) need to be designed to assess the performance of government at central and local level in realizing gender equality goals and draw lessons for future actions.

Studies and assessment analysis need to be commissioned and self-evaluations conducted so that AGE can identify achievements as well as limitations, obstacles and promising strategies to overcome them.

Channels of regular communication between AGE, line ministries, municipalities and other relevant state structures need to be in place and strategies developed to enhance synergies and strengthen collaborative action among AGE and them in the pursuit of common goals.

Institutional arrangements and rules for coordination need to be in place, clarified and formalized and their application monitored to improve coordination between the AGE and ministries/departments and municipalities.

Collaboration between AGE and gender structures or mechanisms in other branches of governments, e.g. parliamentary committees/caucuses, accountability institutions, and autonomous bodies as well as regional and local-level mechanisms need to be improved.

Collaboration with civil society, women's organizations and other social partners particularly trade unions, alliances with new stakeholders such as youth, rural women needs to be built to widen the constituency base.

Staff capacity of AGE in numbers as well in gender expertise needs to be improved. Gender expertise can be improved through recruitment of gender experts and training of staff in methods and tools for gender mainstreaming.

Capacity of staff outside the AGE such as gender focal points, and other officials of government also need to be built. Tools and methods designed for gender mainstreaming should be integrated in the curriculum of general training for government officials.

Budgetary allocation from national sources needs to be increased so that AGE is not over dependent on external donor resources and can sustain its own priorities and work programme.

More attention and efforts should be invested to mobilize and sustain political will for promoting the gender equality agenda and strengthening the national mechanisms. Resistance to the agenda needs to be countered by widening the mass base of political support of the women's rights. The AGE needs to build strategic alliances with women's association without compromising the latter's autonomy and independent voice.

Collaboration and exchange with regional, EU and international institutions and processes need to be encouraged as they have proven to be effective in strengthening domestic gender mechanisms.

Although this report has been requested by the AGE, it has been written with two other distinct audiences in mind, with whom the AGE needs to engage. Firstly, there are the public institutions (which include both levels of government), which are required by law

to act compatibly with gender equality norms. The emphasis here, however, is on public institutions as decision-makers on delivery of services to the public because the way in which these services are planned and delivered is subject to the GE Law as well. Although the majority of public institutions are aware of the need to comply with the GE Law at a minimum, many lack sufficient understanding of the nature and extent of their responsibilities towards GE Law implementation. As a consequence, the systemic organisational changes that are needed have hardly taken place and the risk of GE Law infringements, particularly in relation to private and family life, degrading treatment and discrimination, remain.

These infringements are most likely to be experienced by the most vulnerable and marginalised people in society i.e. women as current statistics from KAS, even though these are the same people in relation to whom public institution have a greater obligation in most common cases. It is important therefore not to lose sight of the reason why this report has considered approaches to encouraging better understanding of the relationship between gender equality and improved decision-making. The bottom line is a protection from gender-based discrimination and the top line is better public-making, and responsive to all citizens.

The second principal audience is policy-makers within OPM, particularly those engaged in public administration. Even though the GE Law has been in force since 2015 and there has been a clear line for line ministries with responsibility for its implementation about the need for public institutions to adopt a gender mainstreaming approach, there is still too little recognition of this imperative across the rest of government. Until the policy-making on the modernisation of public administration itself adopts a gender mainstreaming approach, there is little chance that real changes will occur within the public institutions and their structures delivering services. Any target-setting proposals on gender mainstreaming therefore would have the twin merit of raising awareness of this agenda across government and encouraging wider implementation across the country.

As this report shows, there are a number of things that need to be done as well as things that need to be investigated and researched to support more effective implementation of a gender mainstreaming approach in improving policy-making and implementation. In particular, there should be consultation with the line ministries and municipalities on their own proposals for effective monitoring on gender equality and human rights standards and opportunities for harmonisation of effort. At the same time, initiatives like those

referred to in Chapter III on GE Law monitoring should be pursued to complement target-setting and to increase the likelihood of its success.

The assumption that a gender mainstreaming approach will lead to better governance and delivery of public services and tangible improvements for citizens, needs more of an empirical basis than exists at present. Information is needed on the current levels of understanding among public institutions of the nature of equality and gender concepts (particularly the underlying ‘mainstreaming’ value) and the extent of their legal responsibilities (particularly “positive obligations”). Clarity about which organisations have legal responsibilities under the GE Law, however, is likely to be a pre-condition to effective compliance. The effects of combining the delivery of gender equality and human rights requirements within public institutions and the consequent changes to infrastructure and procedures need to be investigated. Primary research among a range of public institutions at central and local level should be undertaken to test the points made in this report and to gather evidence about what works and what does not. The research should seek evidence of best practice and any consequent improvements in policy implementation and to use monitoring mechanisms to help develop them further. The results of the research will provide necessary data to inform any monitoring framework proposal to measure KPGE implementation progress and its impact on governance, public services as well as reveal what sort of guidance needs to be provided to public institutions.

Guidance to public institutions is clearly a priority. Subject to research findings, it appears that public institutions need a toolkit setting out the concepts and requirements described in this report. Specificity needs to be given to what is meant by promoting a “positive approach” to gender equality. Excellent guidance already exists on compliance with international standards and practice on gender equality but more practical information designed for civil servants and other non-state stakeholders would usefully complement the texts available for lawyers.

So far as any target-setting proposals are concerned, there would inevitably be more early success in measuring the processes undertaken by public institutions than in identifying outcomes of a gender mainstreaming practices in different sectors and levels of government. In terms of measuring qualitative improvements, gender equality would be likely to be in the same boat as the other human rights legislation. There is an inherent

difficulty with designing and measuring outcomes in these areas. One should not, however, be too critical of process in the early stages, provided its limitations are recognised, as at least it is a start. Healthy indicators of action taken and procedures changed in any event tend to demonstrate a tendency towards better outcomes.

The effectiveness of much of the actions proposed in the last chapter of this report depends on one final matter. Since the objective of this report is to assess current impact of GE law provisions and based on findings, to develop a monitoring framework that will support the achievement of GE Law and KPGE objectives and targets through the adoption of a gender mainstreaming and gender-responsive budgeting, public administration at central and local level, activists and voluntary groups should be involved in all proposals that are made to further its implementation.