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Application by Kosovo* for membership of the Council of Europe

Committee Opinion¹

Committee on Equality and Non-Discrimination

Rapporteur: Ms Béatrice FRESKO-ROLFO, Monaco, Alliance of Liberals and Democrats for Europe

A. Conclusions of the committee

The Committee on Equality and Non-Discrimination congratulates the Committee on Political Affairs and Democracy and its rapporteur, Ms Dora Bakoyannis (Greece, EPP/CD), on its draft opinion on the application by Kosovo for membership of the Council of Europe.

The committee is in favour of Kosovo's accession to the Council of Europe, provided that it honours the obligations and commitments set out in the draft opinion adopted by the Committee on Political Affairs and Democracy.

The committee refers to the conclusions of the rapporteur, Ms Bakoyannis, who stresses that Kosovo's accession to the Council of Europe would be the beginning of a process, not the end. The accession by all its citizens to the protection of the European Court of Human Rights would represent major progress for the respect of human rights and the rule of law.

The Council of Europe has been present in Kosovo for some twenty years and fruitful co-operation has been put in place. The Organisation has helped to strengthen Kosovo's legal framework and its implementation in the areas of democracy, human rights and the rule of law. The committee wishes to praise the encouraging developments, while also stressing that further progress will have to be made in these areas. Respect for the rights of minorities (non-majority communities) is vital in building an inclusive society.

To provide some clarifications in the areas of equality and non-discrimination, the committee proposes the following amendment.

1. *Throughout this text, all reference to Kosovo, whether to the territory, institutions or population shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Reference to Committee: Bureau Decision, Reference 4730 of 28 April 2023, Reporting Committee: Committee on Political Affairs and Democracy. See [Doc. 15958](#). Opinion approved by the committee on 15 April 2024.



B. Proposed amendment

Amendment A (to the draft opinion)

After paragraph 15, insert the following paragraph:

“The Assembly reasserts the importance of protecting the human rights of all, including the rights of persons from non-majority communities, women’s rights, the rights of LGBTI persons and the rights of persons with disabilities. It calls on the authorities of Kosovo to:

- ensure the legal recognition of civil partnerships for same-sex couples;*
- step up efforts to combat discrimination on any grounds;*
- promote gender equality;*
- prevent and combat gender-based violence, and prosecute and punish perpetrators of this violence;*
- prevent and combat hate speech.”*

C. Explanatory memorandum by Ms Béatrice Fresko-Rolfo, rapporteur for opinion

1. Introduction

1. On 14 September 2023, the Committee on Equality and Non-Discrimination appointed me rapporteur for opinion on the application by Kosovo for membership of the Council of Europe.

2. This opinion is linked to the report by the Committee on Political Affairs and Democracy, which deals with the geopolitical situation and the political and legal aspects of Kosovo’s application for membership and retraces the time-line of the accession procedure started by the submission of the application on 12 May 2022. The Committee on Political Affairs and Democracy adopted its draft Opinion² prepared by Ms Theodora Bakoyannis (Greece, EPP/CD) on 27 March 2024. The application was also referred for opinion to the Committee on Legal Affairs and Human Rights, which appointed Ms Azadeh Rojhan (Sweden, SOC) rapporteur.

3. I obtained vital information during the fact-finding visit conducted jointly with Ms Rojhan from 3 to 6 December 2023.³ We were able to exchange with members of the government, parliamentarians and representatives of non-governmental organisations dealing with the protection of the rights of non-majority communities, gender equality, the fight against gender-based violence, LGBTI rights and the rights of persons with disabilities. We also met representatives of international organisations, including the United Nations Interim Administration Mission in Kosovo (UNMIK), the EU and the Organization for Security and Cooperation in Europe (OSCE). In addition, we were able to exchange views with representatives of the diplomatic corps based in Kosovo, with the Ombudsman and with the Language Commissioner. Our meetings took place in Pristina and in Gračanica/Graçanicë. The government members we spoke to expressed their desire to build a stronger and more stable democracy. I would like to take the opportunity to thank everyone we met during our visit and during bilateral meetings in Strasbourg.

4. In this opinion, I will focus on the aspects relating to equality and non-discrimination issues, in line with my terms of reference. These aspects have been examined by the eminent lawyers⁴ and the issue of the protection of minority rights has been presented in detail by Ms Bakoyannis. With this opinion, I wish to provide some information and food for thought with regard to gender equality and combating gender stereotypes, preventing and combating gender-based violence, combating discrimination against LGBTI persons, the situation of the Roma communities in Kosovo, participation for all and the fight against hate speech. I also wish to underline the importance of dialogue, reconciliation and building a resilient and open society. Lastly, I would point out that accession by Kosovo to the Council of Europe is without prejudice to individual member States’ positions as regards the statehood of Kosovo.

2. [Doc. 15958](#).

3. The programme of the visit is set out in appendix of the opinion of the Committee on Legal Affairs and Human Rights, [Doc. 15964](#).

4. [AS/Bur\(2023\)64](#), “Report on the conformity of Kosovo’s legal system with Council of Europe standards”.

2. Minority rights, participation in political life and the fight against hate speech

5. A number of agreements enabling Council of Europe monitoring mechanisms to operate in Kosovo were concluded during the period in which the international community held executive power in Kosovo. This applies, in particular, to the reports prepared in respect of the Framework Convention for the Protection of National Minorities (ETS No 157), which are currently in their fifth cycle.⁵ Article 3 of the Constitution of Kosovo guarantees the protection of the rights of the communities. It recognises Kosovo as “a multi-ethnic society consisting of Albanian and other Communities, governed democratically with full respect for the rule of law through its legislative, executive and judicial institutions.” Albanian and Serbian have the status of official languages, while Turkish, Romani and Bosniak are recognised. The body of legislation to protect minority rights is relatively comprehensive, but its implementation needs to be improved.

6. The participation of the representatives of non-majority communities in politics and institutions is one of the foundations of the protection of minority rights. Four government ministers are from non-majority communities. 20 seats are set aside in parliament for representatives of the non-majority communities, but the representatives of the Serbian community (10 seats) have not taken part in parliament’s work for almost a year. The Central Election Commission of Kosovo has set 21 April 2024 as the date for fresh elections in four municipalities in the north of the country where the mayors resigned in November 2022 in protest against the Kosovo Government’s decisions, which they believed discriminated against Kosovo Serbs. It is obvious that participation in political life is vital so as to ensure that interests are represented.

7. I would reiterate Ms Bakoyannis’ call to set up the Association of Serb majority municipalities, which I believe is a vital step towards lasting reconciliation. It is a commitment made that has to be honoured to demonstrate to Kosovo Serbs that their rights will be respected and their demands taken into account. Combating hate speech and promoting reconciliation should be priorities and are closely linked to the protection of the rights of minorities.

8. Language teaching, recruitment of translators, improving public servants’ language skills, recognising qualifications, systematically translating court rulings and strengthening the role of the Language Commissioner are practical measures that can be implemented quickly. The absence of translation and interpretation hinders interaction and can undermine trust at all levels of society. During our meeting, Mr Slaviša Mladenović, Language Commissioner, recommended language teaching at all levels.

9. Failure to recognise the qualifications of people who have completed their education in another school system prevents them from working and entering the labour market. The work done so far by the Diploma Verification Commission is to be commended and the extension of the office’s remit to the verification of secondary school qualifications is a significant step forward.

10. The 2023-2027 strategy for the protection and promotion of the rights of communities and their members has been approved by the government. Mr Nenad Rašić, Minister for Communities and Returns, emphasised the need to reach out to young people so as to reconcile Albanian-speaking Kosovars and Kosovo Serbs. His ministry’s budget has been increased for 2024 with a view to funding economic development and employment support projects in municipalities where communities are in the majority. 10% of jobs in public authorities are reserved for non-majority communities and recruitment is in progress. Many Kosovo Serbs have left to live in Serbia or elsewhere in Europe. Staying in Kosovo can be difficult if there is no support for economic development.

11. The civil society representatives in Gračanica/Gračanicë told me about their lack of hope and trust in institutions and a feeling of dehumanisation which they had experienced in recent years. The lack of interaction between the two education systems was mentioned, as well as the development of two parallel societies between which exchanges are limited.

12. In the draft Opinion, Ms Bakoyannis describes the security incident in Banjska and deplores the rise in tensions over the past two years. The police have a key role to play in easing tensions: the composition of the police force should reflect that of the population and all members of the police should be bilingual.⁶

13. The Kosovo Government announced that from 1 February 2024, it would no longer be possible to make payments in dinars in northern Kosovo, and that there would be no transitional measures. Following criticism from the international community, transitional periods of one month and then three months were introduced.

5. [Resolution CM/ResCMN\(2023\)12 on the implementation of the Framework Convention for the Protection of National Minorities in Kosovo*](#) (adopted by the Committee of Ministers on 31 October 2023 at the 1479th meeting of the Ministers’ Deputies).

6. The Language Commissioner pointed out that 93% of police officers spoke only one language (Albanian or Serbian).

The change makes financial transactions and payment of pensions more complicated and may also heighten tensions on the ground. The UN Security Council held a meeting on the issue on 8 February 2024. At the meeting, which was attended by the Serbian President and the Prime Minister of Kosovo, several delegations called for dialogue.

14. Any escalation in tensions is accompanied by a rise in hate speech. Given the major role played by political leaders in preventing and combating hate speech, political parties in Kosovo should be encouraged to sign and implement the Parliamentary Assembly's Charter of European political parties for a non-racist and inclusive society.⁷

3. Gender equality

15. While so-called traditional social norms still weigh heavily, Kosovar society is young, resolutely forward-looking and wants to move towards greater equality. Women play an active part in political life in Kosovo. Ms Atifete Jahjaga was the first woman elected President in 2011 and Ms Vjosa Osmani-Sadriu was elected President in 2020. Women have been appointed to key ministries, including the Ministry of Justice and the Ministry for Foreign Affairs. Women currently account for 43 members of parliament out of a total of 120, which reflects a positive trend, although parity has not yet been achieved.

16. The momentum of participation in politics is not, however, reflected in participation in economic life, and the official employment rate for women is still very low at approximately 14%. Many women work in undeclared jobs. Steps have been taken to promote the official participation of women in the labour market. For instance, in order to encourage women to open bank accounts, family allowances are paid directly into their accounts, which can help in empowering them.

17. As stated by the eminent lawyers, I would point out that "custom and prejudice against women and girls result in them renouncing inheritance in favour of male family members."⁸

18. While the official age for marriage is 18 years, early marriages do take place. Efforts to combat early and forced marriages should be stepped up. An interagency working group on preventing and detecting early marriages in the Roma, Ashkali and Egyptian communities was set up by government decision, following the 16 days of activism to end violence against women⁹ (25 November-10 December 2023). In Resolution CM/ResCMN(2023)12 on the implementation of the Framework Convention for the Protection of National Minorities in Kosovo*, adopted on 31 October 2023,¹⁰ the Committee of Ministers of the Council of Europe called on the Kosovo authorities to "develop comprehensive policies and measures to prevent early marriages and combat domestic and sexual violence and support awareness-raising efforts among parents, in schools and in communities."

19. During my meeting with Ms Arbërie Nagavci, Minister for Education, Science, Technology and Innovation, I obtained information about programmes to promote gender equality in schools. 1 000 scholarships have been set aside for girls to encourage them to take up STEM (science, technology, engineering and mathematics) studies. There are also programmes to combat exclusion from school, in particular for girls in rural areas.

4. Preventing and combating gender-based violence

20. On 25 September 2020, the Assembly of Kosovo adopted an amendment to the Constitution giving effect to the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210, "Istanbul Convention").¹¹ This enshrining of the convention in the constitution demonstrates Kosovo's determination to prevent and combat such violence.

21. In connection with the Council of Europe co-operation project entitled "[Reinforcing the fight against violence against women and domestic violence in Kosovo* \(phase III\)](#)", the alignment of the laws, policies and other measures in force in Kosovo with the obligations under the Istanbul Convention was examined on the

7. [Resolution 2443 \(2022\) «The role of political parties in fostering diversity and inclusion: a new charter for a non-racist society»](#).

8. [AS/Bur\(2023\)64](#), op. cit.

9. The 16 days of activism to end violence against women are held from 25 November (International Day for the Elimination of Violence against Women) to 10 December (International Human Rights Day).

10. [Resolution CM/ResCMN\(2023\)12](#), op. cit.

11. "[The National Assembly of Kosovo* decides to apply the Istanbul Convention](#)", op. cit.

basis of the methodology employed by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) during its previous evaluation procedures. According to the report's press release, "further action is warranted to ensure effective access to justice, protection and recovery for women victims."¹² The resources allocated for assistance for women survivors of violence seem inadequate, in particular as far as shelters are concerned. While there is still no sex education programme in schools, the introduction of such programmes could help prevent gender-based violence.

22. Combating gender-based violence was described as a priority by the Kosovo authorities during our visit. A national strategy for protection against domestic violence and violence against women (2022-2026) has been adopted and many activities were held during the 16 days of activism to end violence against women (at the end of 2023). The first programme for the perpetrators of violence began in January 2024 with support from the Council of Europe.¹³

23. An issue in terms of lack of trust in the justice system and the police was mentioned by the NGOs. Additional training for professionals who may have to deal with survivors was recommended. The Istanbul Convention should be signed and ratified as quickly as possible after accession to the Council of Europe.

5. Combating discrimination against LGBTI persons

24. In recent years, Pride marches have taken place without incidents in Pristina, with the participation of political leaders, including the President and the Prime Minister, and the international community. There is visible political support from some political quarters for the protection of LGBTI rights.

25. A draft revised civil code has been drawn up by the government and includes the recognition of same-sex civil unions. A corresponding proposal was already presented in parliament in March 2022, without success. Demonstrations were held against the bill,¹⁴ and only 28 out of the total 120 members of parliament voted for it.¹⁵ In January 2024, the Minister of Justice, Ms Albulena Haxhiu, announced that the revised civil code would be tabled again in parliament,¹⁶ which was confirmed by the Prime Minister, but so far, the announcement has not been followed by the bill's inclusion on the National Assembly agenda. The recognition of same-sex civil unions would make it easier for couples to live together. It is still hard for same-sex couples to rent accommodation as couples.

26. While progress has been made on a political level, the acceptance of LGBTI persons by society is relatively low according to the representatives of organisations defending LGBTI rights. The media do not yet show same-sex couples in works of fiction and same-sex couples still have a relatively low profile in public. A performance by Peaches, a queer singer from Canada, at the Dokufest festival in Prizren in August 2023¹⁷ was criticised by the Council of the Islamic community in Prizren, which organised the demonstration, and threats were made against people taking part in the festival.

27. The situation of transgender persons attracted my attention because of the difficulties they face in accessing healthcare. Hormone therapy is not available in Kosovo and gender reassignment surgery is still not possible. Transgender persons go to North Macedonia or Serbia for operations and hormone therapy. While there is still no legislation allowing the legal recognition of gender changes, such recognition can be granted by courts. Transgender women are apparently excluded from wills and are less well accepted in society than transgender men.

28. Lesbian, bisexual and queer (LBQ) women have a low profile and are at risk of multiple discrimination. The NGO representatives referred to differences in the situation of LGBTI persons between Pristina and the rest of Kosovo. Few incidents are reported, often because of a lack of trust in the police. As elsewhere in Europe, anti-gender movements are gaining ground. The international community has worked hard to ensure that the rights of LGBTI persons are recognised and is stepping up its efforts in this connection.

12. [New report assessing the alignment of measures on violence against women in Kosovo* with the Istanbul Convention](#), Council of Europe, 24 November 2022, see also [Assessment of the alignment of Kosovo*'s laws, policies and other measures with the standards of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence \(Istanbul Convention\)](#), Secretariat of the monitoring mechanism of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (available in English, Albanian and Serbian).

13. [Programme for treatment of perpetrators of violence against women in Kosovo*](#), Council of Europe, 24 January 2024.

14. [Freedom House](#), "Kosovo", *Freedom in the World 2023*.

15. "Kosovo snubs recognition of same-sex civil unions", *Euractiv*, 16 March 2022.

16. "Kosovo", ILGA World, <https://database.ilga.org/kosovo-lgbti>, accessed on 1 April 2024.

17. "Controversial Singer's Show Stirs Protest Against Kosovo Film Festival", *BIRN*, 11 August 2023.

6. Inclusive schools

29. I would like to draw attention to the situation of the Roma, Ashkali and Egyptian communities in Kosovo, who are often stigmatised and live in particularly precarious conditions. Access to employment, education and healthcare can be complicated and these communities are therefore in a vulnerable situation. The children go to Serbian or Albanian schools depending on where they live. Learning centres have been set up, but several have closed over the past two years. The education of girls in Roma, Ashkali and Egyptian communities often stops at primary level. Combating exclusion from school is a challenge for the Kosovo authorities.

30. Persons with disabilities are the group that suffer most discrimination and marginalisation in Kosovo. The accessibility of facilities is poor and only 12% of children with disabilities attend school. Access to quality primary and secondary education should be ensured for all children.

31. In the draft Opinion, Ms Bakoyannis addresses the issue of textbooks. It is vital that all children in school are provided with the textbooks they need to keep up at school and make progress regardless of the language taught in their school.

7. Recommendations and conclusions

32. Accession to the Council of Europe would be an appropriate time to reassert the importance and the commitment of the authorities in favour of the participation of all communities, both majority and non-majority, in society, of living together peacefully, of reconciliation and of restoring trust. The recognition of all the identities of the citizens of Kosovo must be ensured in that process. This should be accompanied by transitional measures, the promotion of bilingualism, consultation and clear communication about the decisions taken.

33. A strategic approach to the language issue is necessary. The effective implementation of the law on the use of languages, including at local level, could enable trust in the institutions to be restored. Investment in language education and teaching is vital to achieving the goal of an open and inclusive society.

34. Accession may also present an opportunity for non-majority communities to have the assurance that their rights will be protected more effectively and their concerns will be recognised. The Council of Europe can offer a new forum for discussion and empowerment of communities. While accession would clearly be political, it would also be citizen-oriented, given the impact which it could have on the daily lives of people in Kosovo.

35. The Council of Europe could also send a strong message of support to civil society in Kosovo, recognising the importance of its work in recent years and affirming its desire to co-operate more closely in the years ahead. The Council of Europe will undeniably be an ally which will support the reconciliation efforts in the long-term. No one should have the impression they are being left behind.