



domestic violence

a matter of life

GUIDEBOOK ON PROTECTION
OF VICTIMS OF DOMESTIC
VIOLENCE

GUIDEBOOK FOR THE PROTECTION OF VICTIMS OF DOMESTIC VIOLENCE

Pristina, 2011

Prepared by :

Mr.sc. Ramadan Gashi, Judicial Trainer at Kosovo Judicial Institute
Lumnije Krasniqi, Program Coordinator at Kosovo Judicial Institute
Mary Aguirre -Shahin, OSCE Special Adviser to Kosovo Judicial Institute

Translated by:

Linda Fejzullahu, Senior Language Assistant
Gëzim Fetahu, Senior Language Assistant
Ismet Sadriu, Senior Language Assistant

Technical support by:

Drita Kurteshi, Administrative Assistant
Xhevdet Pllana, Senior IT Officer

This publication is financially supported by UN WOMEN, the views and opinions expressed in this study do not reflect those of UN WOMEN

CONTENT

Preface.....	5
Introduction.....	6
If you are Victim of Violence undertake these steps	8
Shelters for Victims of Domestic Violence in Kosovo	9
International Standards on Domestic Violence.....	10
Convention “For the Elimination of all Forms of Discrimination against Women”(CEDAW) 1979	11
The Role of the Council of Europe regarding Domestic Violence	11
Domestic Violence Convention.....	11
Kosovo Legal Standards on Domestic Violence.....	13
Constitution of the Republic of Kosovo.....	13
Family Law of Kosovo.....	13
Family According to Kosovo Legislation	13
Principles that regulate Family Relations.....	14
Rights and Obligations of Spouses.....	14
Law on Protection from Domestic Violence	14
What is considered as a Family Relationship	15
Do you know what Domestic Violence is ?	15
Forms of Domestic Violence.....	16
Physical Violence	16
Psychological Violence	16
Sexual Violence	17
Economic Violence	17
Isolation as a form of Domestic Violence	18
Factors that cause Domestic Violence.....	19
Causes of Domestic Violence.....	19
Women as victims of Domestic Violence	20
Consequences of Domestic Violence on Women.....	21
Consequences of Domestic Violence on Children	22
Convention on Children Rights	22
Physical Violence	22
Mental Violence	22
Consequences of Domestic Violence on Children	23
Law on Kosovo Police	24
What should you do if you are a victim of Domestic Violence.....	24
Reporting the case of Domestic Violence	24
Perpetrator of Domestic Violence.....	24
State and Society Obligations related to Domestic Violence	25
State.....	25
Do you know what Victim Advocate is?	25
Police.....	26

Do you know what the Kosovo police can do for YOU, if you are a victim of domestic violence	26
Kosovo Police is entitled to issue Interim Emergency Protection Order	27
Offices for Legal Aid in Kosovo.....	28
Court	29
Initiation of a Judicial process in cases of Domestic Violence.....	29
Petition	29
Who can file a petition for Protection Order and Emergency Protection Order	30
The court reviews the petition in most efficient and just manner.....	30
Emergency Protection Order issued by the Court	31
Protection Order	32
The court in addition to orders may impose one or more measures	33
Actions of the Public Prosecutor when as a result of Domestic Violence a Criminal Offence was committed.....	34
State Mechanisms and Non-Governmental Bodies of the Republic of Kosovo responsible to take care about the Well-being of Women and Children.....	35
Contact Information of the Ombudsperson (Lawyer of the people).....	36
Conclusion	37
Sources	38



Preface

Domestic violence is a serious problem throughout the world and has an adverse impact on families and society. Domestic violence is on rise in several regions in Kosovo, and this often occurs due to poor economic state, alcohol and drug abuse, stress and other accompanying factors. Domestic violence exists in many forms, ranging from emotional abuse to physical harm and even death.

The purpose of this Guidebook is to provide the right information to the victims on how to get help when it is needed. This Guidebook outlines the role of the government, police, prosecutors, judges, civil society and others stakeholders in assisting victims of domestic violence. The Guidebook also provides essential information about the laws that regulate domestic violence cases and the legal procedures available to protect victims of this phenomena, including the issuance of protection orders, emergency protection orders and other orders issued by judges to protect victims of domestic violence.

The Kosovo Judicial Institute (KJI), in cooperation and full support of the UNWOMEN project in Kosovo made the publication of this Guidebook possible. KJI, the primary institution in Kosovo responsible for the training of judges and prosecutors, is committed to continue with training for judges and prosecutors on women rights related matters. In 2011, KJI certified 19 judges and prosecutors in the area of human rights and gender equality. These trainers provide trainings on the rights of women in five regions throughout Kosovo. Trainings on domestic violence were provided also for candidates for new judges and prosecutors attending the Initial Legal Education Program.

KJI believes in “Justice through Legal Education” and is dedicated to continuously provide high quality training on significant issues that affect Kosovo’s citizens to insure full and just function of Kosovo courts. Victims of domestic violence have at all times a place to turn to for help, thus the judiciary in Kosovo plays a critical role in protecting these victims.

We believe that this Guidebook is also a further contribution in increasing the response required by the law against domestic violence.

Mr.Sc. Lavdim Krasniqi,
Director of Kosovo Judicial Institute

Introduction

Violence against women is the most widespread violation of human rights in the world which affects women of all ages, cultures, regardless of the education level and socio-economic background, knows no boundaries and is present in all countries of the world . The violence can happen at home, on the street, at school, at work, conflicts, and can be physical, emotional, sexual, psychological and economic.

Violence against women has grave consequences for the entire family as well as for the community. According to global statistics, the leading cause of death of women aged 16-44 years is the violence that is perpetrated most often by close persons such as spouse or partner. When a person in marital or extramarital relationship, cohabitation, divorced, or in any close relationship, mistreats and abuses the other person, we are dealing with domestic violence.

According to some studies conducted on domestic violence it has been proved that violence against women is a complex and multi dimensional problem. Regardless of the legal and institutional framework to prevent and protect victims of domestic violence and despite the efforts and measures taken to prevent and minimize it by the state bodies and nongovernmental organizations, domestic violence continues to be one of the most problematic phenomena in our society.

In Kosovo, since 2004 approximately 1000 cases of domestic violence are reported within a year, where more than 85% of victims are women. In 2010 a total of 944 cases were reported, 754 were women and 190 victims were male victims. According to the police, 11 reported cases of physical violence against the husband where the wife is a suspect are included among the reported cases of violence against men committed by father, uncle, brother or a person related in other ways . However, cases of domestic violence have increased in the second quarter of 2011 compared with first quarter of the same year.

According to police statistics, from January to March 2011, police assistance was requested in 178 cases. Regarding the period from April until July of the same year, police assistance was requested in 234 cases. According to statistics, the highest number of such cases is reported in the municipality of Peja.

Another challenge related to domestic violence is that in many cases the victims do not report the incident of violence. According to domestic and global reports around 50% of cases of domestic violence remain unreported.

In Kosovo the legislation on gender equality, rights of women rights and protection from violence is quite advanced. In particular, from last year Kosovo has the Law on Protection from Domestic Violence as well as the strategy and action plan. But the main challenge is to implement these laws and strategies into practice in daily life. In order to contribute to the implementation of LPDV and to increase the level of protection of women (and children) of domestic violence, the Kosovo Judicial Institute (KJI) has produced this Guidebook.

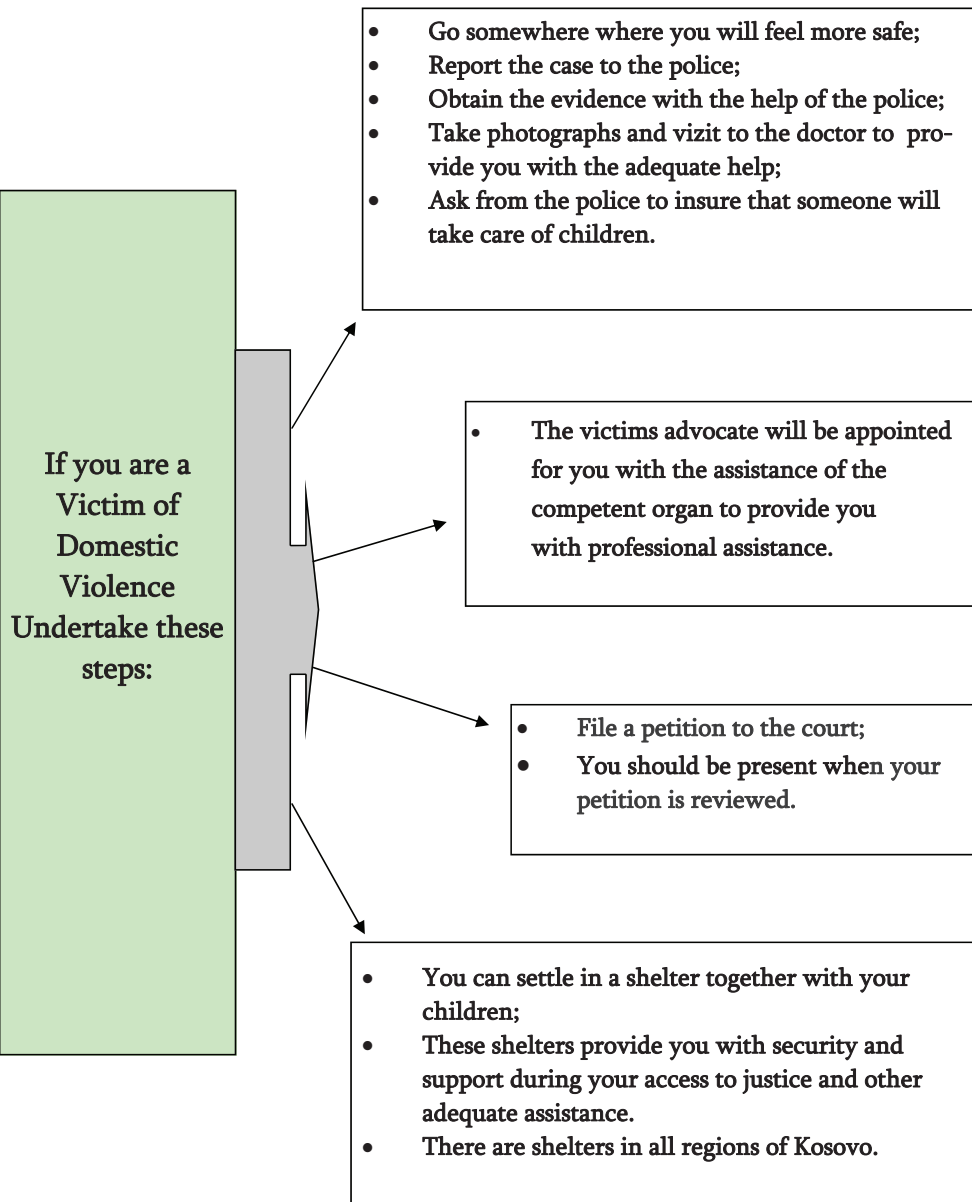
The Guidebook will serve primarily to judges and prosecutors, so that they in their daily work apply the most advanced laws for the rights of women, in particular the law for protection from domestic violence. But it will also be a Guidebook for the police, NGO's and especially for victims of violence themselves.

The Guidebook is a result of continuous work and training of KJI and judges with the support of UN Women, for the international and domestic legislation in the field of human rights of women and gender equality.

This Guidebook intends to provide a brief and clear overview on International and Domestic Legislation and Mechanisms for Protection from Domestic Violence. It also provides clear instructions for the judicial system and the application of the Law on Protection from Domestic Violence and also provides sufficient information for victims of domestic violence and the steps that the victim can undertake when she has been a victim of any form of violence. Initially, it will determine the importance and the most appropriate way possible, providing accurate and meaningful information as well as highlighting the general problematic.

The aim is through these analysis tests to enable a general understanding of the object in order to provide knowledge on basic issues such as:

- Information on international and local standards related to domestic violence;
- What does domestic violence cause;
- Identifying forms of domestic violence;
- Listing state organs (police, courts and other state mechanisms that are obliged to help victims of domestic violence);
- Actions to be undertaken by the court, prosecution and police, when a domestic violence case is reported.



Shelters for Victims of Domestic Violence in Kosovo

Shelter houses offer shelter to victims of domestic violence: providing food and clothing, psycho-social support and in collaboration with relevant institutions provide them with medical and legal care, and educational training to increase their awareness and empowerment as well as other recreational activities.

The main role of the shelters is to provide security for victims of domestic violence and their children, as appropriate, before, during and after the court proceedings. Through individual and group counseling, they also provide psychological support to women as they experience difficult and traumatic period in their lives.

Kosovo has these shelters for Victims of Domestic Violence



“Violence against women is perhaps the most shameful violation of human rights.” “As long as it continues, we cannot claim to be making real progress towards equality, development and peace”.

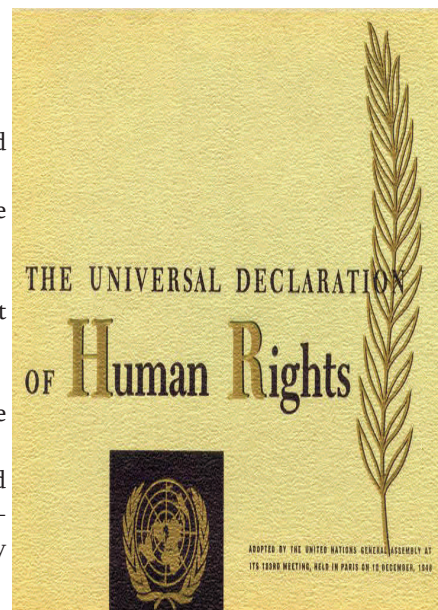
*(* Mars 1999, Kofi Anan, UN Secretary General)*

International Standards on Domestic Violence

Nowadays, international legal standards prohibit domestic violence, as violation of human rights and fundamental freedoms guaranteed for all individuals, with no exception.

The Universal Declaration of Human Rights

- The right to Equality;
- Freedom from Discrimination;
- The right to Life, Freedom and Security of Person;
- Freedom from Torture and cruel, inhuman and degrading treatment;
- The right of recognition as a person before the law;
- The right to Equality before the law;
- The right for legal remedies from the competent court;
- The right to Equality in the Family;
- The right for the most highest achievable standards for physical and mental health;
- Everyone has the right to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.



Convention “For the Elimination of all forms of Discrimination against women” (CEDAW) 1979

CEDAW sets legal standards for achieving gender equality through the elimination of discrimination against women. The purpose of the convention is to create equality for women in all spheres of life whether political, social, economic or cultural. The Convention makes clear that women are entitled to a full and equal enjoyment of all their human rights.

The Convention aims to ensure equality as the primary obligation for States parties and improve the position of women in the society. The Convention fights gender ideology seeking a change to the traditional attitude towards women . (<http://www.un.org/womenwatch/daw/cdaw>)

The role of the Council of Europe regarding Domestic Violence

Council of Europe, as regional intergovernmental organization, has directed its attention to the protection of human rights, since its establishment in 1948. The system of human rights of the Council of Europe is based on treaties, which define the obligations of member states and non-binding instruments such as directives and resolutions.

Convention for the Protection of Human Rights and Fundamental Freedoms (Article 3 of the European Convention) ;

No one shall be subjected to torture, to inhuman or degrading treatment or punishment.



Council of Europe — with its seat in Strasbourg France

Convention against Domestic Violence - adopted in May 2011, and signed by 15 countries.

- Calling for the establishment of SOS help lines, shelters, medical and forensic services, counseling and legal aid services.
- It is designed to provide help to 25% of women in Europe who have experienced physical or sexual violence during their lifetime.
- Paves the way for establishing the legal framework at European level to protect women against all forms of violence and preventing and eliminating violence against women and domestic violence. <https://wcd.coe.int/wcd/ViewDoc.jsp>

- European Social Charter;
- European Convention for the Prevention of Torture, and Inhuman or Degrading Treatment or Punishment;
- Resolution “**On violence against women**” of 1986. It called for legal recognition of marital rape, the organization of trainings for those who may be in contact with victims of domestic violence, and recommended that women should be provided with legal assistance.
- The European Parliament adopted the resolution on the need to undertake a broad campaign of the EU for “**zero**” tolerance of the violence against women in 1997.
- The Presidency of the EU, put the issue of domestic violence in its political agenda since 1998 and has adopted a number of recommendations that address mainly domestic violence.
- Council of Europe conference on combating violence against women, including domestic violence, Strasbourg, 10 and 11 June 2008.
- The Presidency of the EU, put the issue of domestic violence in its political agenda since 1998 and has adopted a number of recommendations that address mainly domestic violence.
- Recommendation (2002) 5 of the Council of Ministers of Member States on the protection of women against violence adopted on April 30 2002, together with Explanatory Memorandum. This recommendation includes the obligation to recognize men's violence against women as a major structural and social problem,



**European Court of Human Rights in
Strasbourg**

which comes as a result of unequal power relations between men and women, and therefore encourage the active participation of men in actions that aim combating violence against women.

- Conference of the Council of Europe in combating violence against women, including domestic violence, Strasbourg, June 10 and 11, 2008 .

Kosovo Legal Standards on Domestic Violence

There are number of legal acts in force in Kosovo that guarantee freedoms, rights and obligations of all citizens regardless of their gender, religion, ethnicity, such as :

- Constitution of the Republic of Kosovo;
- Family Law of Kosovo;
- Law on Protection from Domestic Violence;
- Law on Gender Equality;
- Law on Kosovo Police;
- Criminal Code of Kosovo.

Equal Rights and Responsibilities are guaranteed by the Constitution!

Constitution of the Republic of Kosovo

The Constitution establishes the principle of equality and nondiscrimination, and this led to the development of domestic law, so that the entire Kosovo legal system is based on the principle of equality and nondiscrimination.

The Constitution guarantees:

- Direct Implementation of International Agreements and Instruments (**Article 22**);
- Human dignity is inviolable and is the basis of all human rights and fundamental freedoms (**Article 23**);
- The right to make decisions concerning reproduction, according to the rules and procedures established by law;
- The right to have control over her own body;
- The right not to undergo medical treatment against his/her will in accordance with the law;
- The right not to participate in medical or scientific experiments without his/her consent (**Article 26**).



Family Law of Kosovo

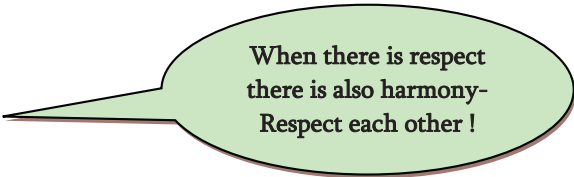
(Law no.2004/32)

Family according to Kosovo Legislation

Life within the family means mutual relations between its members. Family is a vital community of parents and their children and other persons in blood relation. The family is the natural and fundamental nucleus of society and as such it is entitled to protection.



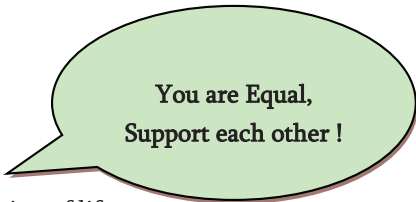
Principles that regulate family relations



When there is respect
there is also harmony-
Respect each other !

- Equality between men and women, respect and mutual assistance between them and family members;
- Protecting children's rights and the responsibility of parents to raise and educate their children, where child means a person under the age of 18;
- Parents and children are obligated into mutual help and consideration during their whole life (**Article 3**).

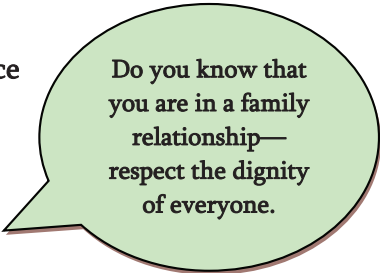
Rights and obligations of spouses



You are Equal,
Support each other !

- Spouses in a marriage are equal in all personal and property relations;
- Entering into marriage lasts for the whole duration of life;
- Spouses are required to be faithful to each other and in a mutual way help, respect and support each other financially, especially when one of them does not have sufficient material grounds for living;
- Spouses will develop and express a sense of mutual solidarity, and solidarity towards their born or adopted children; (**Article 42**).

Law on Protection against Domestic Violence (Law No: 03/L-182)



Do you know that
you are in a family
relationship—
respect the dignity
of everyone.

Family relationship is considered if persons:

- Are or have been engaged;
- Are or have been married;
- Are or have been in extramarital union;
- Are or have been cohabiting in a joint household;
- Use a joint house or they are related by blood, marriage, adoption, kinship or they are related as a guardian including parents, grandparents, children, grandchildren, nephews, siblings, aunts, uncles or cousins;
- Are parents of a joint child;
- Are procedural parties in a family relations dispute (**Article 1.1**).

Do you know what Domestic Violence is ?

Domestic violence includes a combination of power and control that is used to cause pain and fear among victims, in order to have control over, humiliate and weaken them.

Say, Stop to the Domestic Violence, Find other solutions !

Domestic violence is a behavior through which a spouse or family member uses physical violence, intimidation, isolation, or emotional, sexual and economic abuse, to control the partner/other family member in the relationship/household. At the same time, it is the violence towards other persons that live within the wedlock or extramarital relationship/household, as well as towards extramarital partner or persons that have children or are closely related and in close personal relationship.

Domestic Violence - it is one or more intentional acts or omissions that one person commits against another person with whom he/she is or has been in family relationships, but not limited to:



Law on Protection from Domestic Violence (Law Nr:03/L-182)

Violence is never justified, do not use it.

- physical force or psychological pressure used against another family member;
- any other action of a family member that may cause or threaten, with physical pain and mental suffering;
- causing sense of fear, danger or violation of personal dignity;
- Physical assault regardless of consequences;
- Insults, swearing, addressing with offensive names and other ways or rude disturbance;
- constant and repetitious behavior aiming to degrade the other person;
- sexual intercourse without consent and sexual harassment;
- unlawful restriction on freedom of movement to another person;
- damage or destruction of property and the threat to do so;
- putting another person in the position that he/she fears for his/her physical, emotional and economic state;
- forced entry or expulsion from a joint residence or other person's residence
- kidnapping (**Art. 2 par 1, sub-par. 1.2 of LPDV**)

Forms of Domestic Violence

In Kosovo society of these days there is an increase of the phenomenon of domestic violence, which is more commonly used against women, children and the elderly. Studies show that violence occurs in all forms such as :

Physical violence - is considered: slapping, beating, arm twisting, burning, kicking, threatening with weapons, pushing, hitting, scratching, pinching, biting, throwing, house arrest, hitting with various objects, refusing to help the woman when she is pregnant or sick, up to the more severe form such as, causing injury, murder and attempted murder.

Psychological violence - includes the form of violence that is intended to intimidate and persecute. These are made through threats, house arrest, insults, surveillance, threats of taking custody over children, destruction of objects such as: photographs, portraits, isolation, sneering, humiliation and verbal aggression.

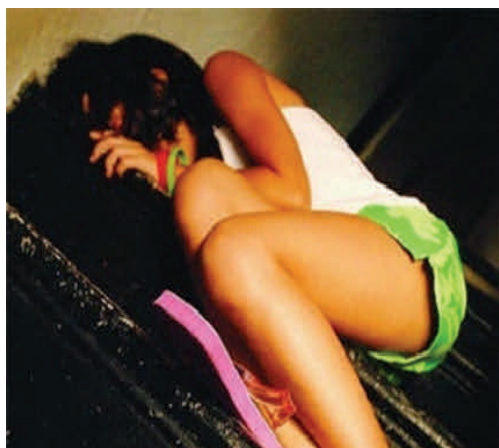


Physiological pressure is violence!

At the same time, ignoring the feelings of the wife, constant criticism, constant contradiction of opinions, public or private humiliation, trying to convince your partner that she deserves the violence because of her actions, threatening the partner for adultery, constant signs of jealousy, threatening of taking away the children, hiding the money, keeping the wife at home without work, abusing children, calling with derogatory names, etc.

(Article 2, paragraph 1, sub-paragraph 1.2, section 1.2.1 of LPDV)

Sexual violence - is considered sexual intercourse forced through threats, physical force and humiliation, obligation on unwanted sexual acts or forcing to have sex with others, treating the partners as a sexual object. Also forcing on acting as a striptease, carrying out sadistic sexual acts, forcing the partner to have sex after physical abuse as a condition to maintain their relationship, forcing to have extramarital sexual relations, etc.
(Article 2, paragraph 1, sub-paragraph 1.2, section 1.2.7 of LPDV)



Disrespect of the will and
the breach of dignity is
Violence. Violence is
punished !

Economic violence includes - denial of funds, refusal to contribute financially, denial of food and basic needs as well as gaining control over health care benefits. This form of violence is about the control of the partner's financial income in the family or a ban of women's participation in decisions about the money expenditures, even refusing to grant the money to cover basic family needs, denial of ownership to joint property, damage or destruction of property, theft of property, etc.

(Article 2, paragraph 1, sub-paragraph 1.2, section 1.2.9 of LPDV)

" My husband takes all the money. He doesn't care about the children and our needs . He thinks only about himself, he goes out every night, comes back late, he insults and humiliates me..... He has always beaten me, but I remember one occasion when he beat me like never before. That day he came home late at night, it was 3 am I was asleep with the children, the husband was completely drunk. He began to beat and I did not understand why. He hit me on the head with a bottle. I was bleeding....."



States a woman, victim of domestic violence

Isolation as a Form of Domestic Violence

Isolation is a form of domestic violence which is performed by illegally restricting the freedom of movement of another person and prohibiting another person from entering or going out of a joint residence. Isolation is the denial and violation of basic living conditions perpetrated against a family member .

We have isolation when a person is prohibited from leaving the room, house, the person is kept under control without any right to interact with other family members with friends, colleagues, denied access to personal identification documents.

The perpetrator of this violence controls the movement of another family member by using violence. This happens when the husband keeps his wife locked in the room by denying freedom of movement, denying the use of toilet, prohibiting communication and free interaction with other persons.

At the same time, the restriction by the husband on where can the wife go, seizing or destroying personal identification documents, prohibiting from meeting—visiting friends or family, prohibiting participation in activities outside the house, obstructing or making it difficult through various methods meetings with relatives or friends.

Also to lock the mother-in-law or the father-in-law in the room by the bride, locking children in the room by parents or step-parents, locking in home a person with disabilities etc. (Article 2, paragraph 1, sub-paragraph 1.2, section 1.2.8 of LPDV)

Obstruction of the freedom of movement is a crime. Denial of this right constitutes a violation of human dignity and personality.



Factors that could cause domestic violence

Domestic violence can be caused by personality disorders, alcohol or drugs, loss of self control, anger, stress or relationship problems of the couple. The desire to dominate over someone, to set and exercise power and control towards the other is the main factor of domestic violence. This may appear as power and control that spouses exercise against one another, parent against child, other persons against disabled and elderly may be other factors that cause domestic violence.

Other (secondary) factors that can cause domestic violence are:

- **External social factors:** the impact of culture, economy, politics, major demographic movements ...etc.
- **Family internal factors:** models with which they grew up, family education, ways of raising children ...etc.
- **Personal-level factors:** mental health problems of individuals, alcohol abuse, drugs, stress, level of culture, various personality disorders, personal experiences in family relationships, difficult economic conditions, the absence of one parent ... etc.

Causes of Domestic violence

- Alcohol consumption;
- Use of drugs;
- Jealousy;
- The desire to influence the spouse;
- Gambling;
- Violent-aggressive character;
- Unemployment;
- Difficult economic situation;
- Common property-ownership issues of spouses;
- Disagreements—Family Conflicts,
- Dissolution of marriage (when spouses are in the procedure of divorce);
- Extramarital relationship - Adultery;
- Child Custody Disputes;
- Mentality ;
- Origin of the spouses (deriving from families in which family violence was present when they were children);
- Impact, the inducement of the family member by ascribing them false things,
- Prohibition to create working relation, go to school etc.

Excessive alcohol consumption, destroys the family!



Women as Victims of Domestic Violence

A person who is a subject to domestic violence is a victim. Ongoing physical violence, associated with emotional, sexual and economic violence, causes multiple effects on women. In most cases victims of domestic violence are women. Sometimes violence becomes so unbearable that women think about suicide. Therefore, it is not surprising that women who are abused physically, psychologically or sexually are emotionally hurt. The most common signs of domestic violence mentioned by women are anxiety, depression, fatigue, nervousness, headaches, lack of concentration and insomnia.

(Article 2, paragraph 1, sub-paragraph 1.6 of LPDV)



Women who have been victims of domestic violence should be encouraged and supported to establish and develop relationships with the world around them, they should be encouraged to be part of economic and social life.

For additional information contact:

*Agency for Gender Equality (AGE),
By the office of the Prime-minister of the Republic of
Kosovo,*

By reporting the case you declare war to Domestic Violence.

**If you are a victim of
Domestic Violence contact
the Police!
Dial the free of charge
number: 112 or 92**



Within the Kosovo Police there is the Department of Investigations against Domestic Violence that operates within the Directorate for Investigation of Gravois Crimes, General Directorate. The section is structured in three levels on a vertical line:

- Central level (1 lieutenant and 2 sergeants);
- Regional level (two investigators); and
- Station level (two primary investigators) who can be reached **24 hours** for all domestic violence cases, who will respond to the call by going to the scene to investigate the case, and if basis are found, the case is sent to the competent Prosecution office.

Consequences of the domestic violence on woman

- **Psychological consequences**– grave psychological stress, depression, fear, anxiety, lack of self-esteem, anorexia and insomnia, insecurity, post-traumatic disorders, suicidal tendencies.
- **Physical consequences** - result in physical injuries as fractures of extremities (teeth, nose, jaw, arms, feet, finger) and fractures of other body parts, which actions can cause partial disability, permanent injuries, light or grievous bodily harm, etc.
- **Consequences related to the reproductive health** - unwanted pregnancies, gynecological problems such as sexually transmitted diseases, abortions, premature births or underweight babies etc..
- **Consequences related to the loss of the harmony in family** - which often in practice ends up with divorce, entry into prostitution, falling a victim of trafficking, etc.



Children as victims of Domestic Violence

Physical violence – constitutes pushing, crashing against the floor, head crashing against the bed, against the dining table while the child is eating, head crashing against the wall or bench, ear and hair pulling, hair follicles, tweaking fingers, etc. Also considered as physical violence also is tying the child with the rope to limit his/her movement, malnutrition, forced child labor and forced begging, incest, restriction of movement, forbidden play ... etc.

Embrace the child!
Don't forget its your
child - stop the
violence

Mental Violence— constitutes a behavior when adult family members mentally mistreat the child through: refusal, limited play, ignorance, frustration, isolating or locking the child, insult or constant humiliation in different ways and forms, intimidation and threatening that the child will be left home alone at home or in the dark basement, etc.. This violence can be carried out by parents, older brother or sister, or any other family members.



Therefore, the state shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, such as injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, as long as he/she is under the care of the parents, or under the supervision of one of them, representative or their legal representatives or any other person entrusted to take care of the child (**Article 19 Convention on the Rights of the Child**).

Consequences of the domestic violence on children

The domestic violence reflects to the children in the same manner as to their parents, sometimes even more, even in cases when they are not direct victims of the violence. The level of their psychological development does not allow them to understand the painful situation in the family that they are going through. Such family situation that accompanies them during their physical and psychological development may leave inerasable traces and affect their personality development.

They take the responsibility of taking care of their younger brother or sister; they even attempt to bring back the family happiness by trying to do things that would make their parents happy so they can feel good about it

They tend to put contacts with their friends to an end because they are afraid that violence incidents may occur in their presence. Thus, they prefer to be isolated in very early age by risking to be isolated completely from the society.



These children soon begin to show difficulties in the learning process, lack attention, do not study enough, lose the desire for education, become passive in class, they become isolated, miss the classes, have limited and vulgar vocabulary and very often end up dropping out of school.

Children who are brought up in violent environments have tendencies to turn to violence as a method problem solving when they reach adulthood. They risk of becoming alcoholics, drug addicts and breach the law

Law on Kosovo Police (Law No. 03/L-035)

What should you do if you are a victim of domestic violence?

Reporting a Domestic Violence Case

Dilemmas and difficulties that the victims face when reporting domestic violence are clearly observed in practice, because of the consequences that may arise later on. Victims of domestic violence, are afraid and hesitate to report violence, keeping quiet is a mistake.

Violence is a crime, it may kill if you remain silent!

Victims of domestic violence can take steps to improve their situation. Therefore, the awareness to understand that silence is a mistake is the most important step, and that above all they can take steps to improve the living situation in which they are, is strategic mechanism to eliminate domestic violence. There is no tolerance for violence, domestic violence is not a private matter.

Kosovo Police has the following duties:

- To protect the life, safety and property of all individuals;
- To protect the human rights and fundamental freedoms of all individuals;

(Article 10).



Contact the Police
Domestic Violence Unit
dial :112 or 92

The perpetrator of the domestic violence

The perpetrator is the person who has committed one or more acts of domestic violence, against whom a protection order or an emergency protection order is sought. Perpetrators of domestic violence may be of different professions, with different economic situation, different education level, and different ethnicity. The statistics have shown that women are usually more vulnerable to domestic violence which shows that often men misuses their power to control their life, family and their rights.



Obligations of the State and Society related to the Domestic Violence

State

A state is obliged to fight and prevent domestic violence from occurring, but if it does occur, the state is obliged to protect the victims of this violence. Therefore, the State shall take all appropriate measures to ensure protection of human rights by enabling victims of domestic violence to file a petition in court, providing them social services and health care.

State is responsible not only to stop the violation of human rights of women, children and every other person who is a victim of domestic violence, but also to undertake active preventive measures to protect these victims.

Do you know what Victim Advocate is?

The Victim's Advocate is the authorized official person who assists the victims of domestic violence. The victim's advocates play active role in representing the interest of the victim. They are responsible to offer professional advice and in front of competent authorities initiate the procedure to determine protective measures and other necessary proceedings to protect the victim with dignity. He/she will take part in all court sessions and file appeals against court decisions which he/she considers were brought in disfavor of the victim.

(Article 2, paragraph 1, sub-paragraph 1.2, section 1.8 of LPDV)

Regional offices of DMNV, contact information for the victim protection

The Phone Number is available 24 hours.

Phone No. List of Regional Offices functioning trustee of VA

Prishtinë region	044 278 738
Gjilan region (Kamenicë, Viti)	044 310 467
Ferizaj sub region	044 161 138
Prizren region	044 310 468
Malisheva sub-region	044 418 657
Suharekë sub region	044 425 480 , 044 310 468
Pejë region	044 348 164
Gjakova sub region	044 418 668
Deçan sub region	044 425 469
Istog sub region	044 352 938
Mitrovica region	044 310 466; 044 425 479; 063 848 79 91
Graçanica region	044 415 479

Police

Victims of domestic violence should contact the Police as soon as a case of domestic violence occurs. Police officers play a very important role in building trust and mutual cooperation with the victim of violence. The victim should ask from the police information about shelters and other measures for their protection.

Do you know what the Kosovo Police can do for you if YOU are a victim of domestic violence ?

- The police considers each call of the victim of domestic violence as an emergency and priority and reacts immediately by sending an investigation team at the crime-scene for taking necessary procedural actions;
- Victims of domestic violence are entitled to ask for a female police officer to give her the statement in order to feel more comfortable;
- The police drafts a report about the case;
- Provides transportation of the victim and her children to appropriate medical facility for treatment or medical examination;
- It will provide information about legal aid services, psychological and other assistance available such as government institutions and authorized network of nongovernmental organizations that provide services for the victims;
- It will take photographs of the wounds and collect evidence that will be used in court;
- It will compile a criminal report if violence consequences are to be considered as criminal offense and will immediately inform the Prosecutor about the case;

Police is
always
ready to
serve the
citizens.



The police officer is authorized to temporary detain a person if that is necessary:

- The police duty is to protect individuals from the danger and damages especially if the person cannot protect his/her self;



(Article 10 of the Kosovo Police Law)

Kosovo Police is entitled to issue Interim Emergency Protection Order

Outside of the court working hours, upon request, the chief of regional unit of the Kosovo Police may impose a Temporary Emergency Protection Order against perpetrators of domestic violence when:

- There are grounds to believe that the perpetrator has committed or threatened to commit an act of domestic violence
- The perpetrator poses an immediate or eminent threat to the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party which is under protection of the order.

The issuance of the protection order is necessary to protect the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order.

Order imposed against domestic violence comes into force immediately and is sent to the perpetrator of domestic violence, protected party, to the petitioner and other persons whose names are listed in the emergency protection order.

At the same time, the order should be sent to the local police station in the location where the protected party and other persons named in the protection order reside on a permanent or temporary basis and the Center for Social Work in the municipality where the protected party and other persons listed in the protection order reside on a permanent or temporary basis, the competent municipal court and to the victim advocates.

The order contains a notification that the respondent may be assisted by legal counsel during the judicial proceedings by explaining that after the expiration of the temporary emergency protection, the protected party may petition for emergency protection order which, if granted will be subject to holding of a court hearing on protection order against which the appeal was filed.

The violation of the Temporary Emergency Protection Order is considered a criminal offence. The validity of the Temporary Emergency Protection Order expires by the end of the following working day of the court.

(Article 23-26 LPDV)



Offices for Legal Aid in Kosovo

BQNJ-Prishtinë/St. Zejnel Salihu

No:30

tel:+381(0)38 200/18-945

BQNJ-Prizren /

**Str. "Marlin Barleti" former Cadastral
Office**

tel:+381(0)29/230554

BQNJ-Pejë/St. „Bukuroshës” No:8

tel:+381(0)39/ 423-698

**BQNJ-Mitrovicë/St:”Vëllezërit Dragaj “
No.16**

tel:+381(0)28/534-477

BQNJ-Gjilan/St: “Mulla Idrizi”

No:41

tel:+381(0)280/321-134

**If you are a victim of
domestic violence, you
need Legal Aid.**

**Contact ne of these
offices.**

**These offices are ready
to provide you with the
professional assistance
and efficient protection
of your rights.**

The legal aid provided by this offices is free of charge, this assistance is necessary in order to ensure the effective and equal approach to justice.

Court

Initiation of the judicial process in cases of domestic violence

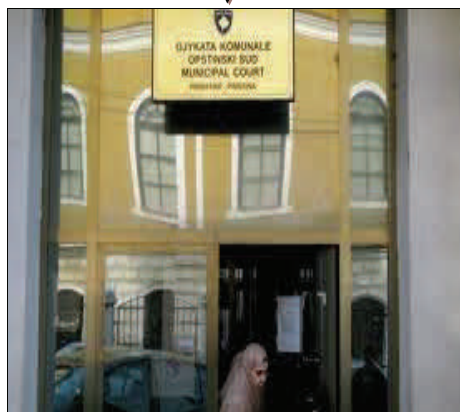
Petition

Victims of the domestic violence are entitled to file a petition before the court for all cases of domestic violence. The petition should be filed at the municipal court where the victim resides.

The petition shall include the following:

- Data for the court, the name, address and occupation of the petitioner and of the respondent;
- The name and address of the protected party and/or a person who has a family relationship with the protected party and who is to be protected by the protection order or emergency protection order and the relationship of such persons to the respondent;
- A clear description of the factual circumstances and attached evidence;
- If the disclosure of the permanent or temporary address of the petitioner, the protected party and/or a person who has a family relationship with the protected party and who is to be protected by the protection order or emergency protection order would endanger such persons, the one or more following measures may be taken:
 - The petition should provide an alternative address;
 - If the court determines that disclosure of the address in the court records is necessary, the records which reflect that address shall be sealed.
- **(Article 14 of LPDV)**

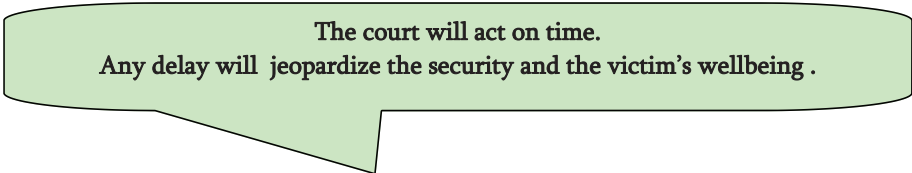
Everyone has the right to access the court. The court function is to protect the citizens - Don't remain silent.



Who can file a Petition for Protection Order and Emergency Protection Order?

- The protected party;
- The authorized representative of the protected party;
- Victim's advocate with the consent of the protected party;
- A representative from the Center for Social Work in the municipality where the protected party permanently or temporarily resides when the victim is a minor;
- A person with whom the protected party is in a family relationship;
- A person with direct knowledge of an act or acts of domestic violence against the petitioner.
- The petition for protection order or emergency protection order may be filed also by NGO's, that are familiarized with the victim's problem, treatment and are sufficiently notified about their treatment.

(Article 13 of LPDV)



**The court will act on time.
Any delay will jeopardize the security and the victim's wellbeing .**

The Court Reviews the Petition in the most Efficient and Just Manner

The courts are created and exist to equally protect all citizens, without any prejudice or discrimination. The court function is to ensure and safeguard human rights and freedoms.

Courts are available to all persons regardless of gender or ethnic, religious differences or other status. All citizens have equal access to court and no one should be hindered or deprived of this right.

This operates with efficiency and professionalism to take seriously the issues that are in its jurisdiction. Therefore, the court through formal and informal procedures will be quick, fair, economical and applicable in practice.

Emergency Protection Order Issued by the Court

The court shall decide on a petition for an emergency protection order within twenty-four (24) hours from the filing of the petition. In reviewing a petition for an emergency protection order, the court holds a closed hearing session in which the following persons are present:

- Protected party;
- The authorized representative or the victim's advocate;
- The respondent or his/her authorized representative;
- The petitioner;
- Every witness, who is familiar with the case of domestic violence.



The court has the authority to issue the order in the absence of a perpetrator of domestic violence, by using other means including the electronic ones.

The court issues the **Emergency Protection Order** when there are grounds to believe that such order is grounded, the court may also issue other protective measures depending on the case.

Duration of the Emergency Protection Order expires at the end of the hearing for confirmation of the Emergency Protection Order which must be completed within eight days from the issuance of the Order and the notice that the offender may be assisted by an authorized representative. The court during the hearing on confirmation of order, may give the order to terminate the Emergency Protection Order, or may issue the Protection Order.

An emergency protection order or a protection order issued by the court shall be immediately executed and served on the respondent, Kosovo Police, Center for Social Work and other parties of the procedure. The unsatisfied party has the right to appeal against the decision of the Emergency Protection Order within three days from receipt of the decision. The filing of an appeal will not stay the execution of the Emergency Protection Order.

It is underlined in the order that its violation constitutes a criminal offence. Two days before the expiration of the Emergency Protection Order, the protected party, authorized representative or the victim advocate may submit a request for extension of the emergency protection order to which the Court decides to continue or terminate the Order. If there is no petition the court immediately terminates the order.

(Article 16 -22 of LPDV)

Protection Order

The competent court, during a session on contested procedure rules to issue the protection order within fifteen days after receiving it. The court issues the order in cases where there is ground to believe that the responded poses an immediate or imminent threat to the safety, health or wellbeing of the protected party or a person who is in a family relationship with the protected party and who is to be protected by the protection order.

In reviewing a petition for protection order, the court holds a hearing so that the following persons may be heard:

- Protected party;
- The authorized representative or the victim's advocate;
- The respondent or the authorized representative;
- The petitioner;
- A representative from the Center for Social Work of the municipality where the person referred to permanently or temporarily resides in a case where, the petitioner is under the age of eighteen years or lacks legal capacity, or the alleged acts of domestic violence impact on a person who is under the age of eighteen years or lacks legal capacity; and
- Witness deemed necessary by the court.

The hearing and issuance is carried out in the absence of the respondent in cases where the perpetrator was duly summoned and the petition is supported by sufficient evidence.

The petition will be considered as withdrawn if neither the protected party or the authorized representative of the protected party appear at the hearing for which they were duly summoned and did not inform the court about the reasons for their absence. The withdrawal of the petition does not prevent submission of another petition.

Within fifteen days prior to the expiration of the protection order, the protected party or his or her authorized representative may file a petition for the extension of the protection order. If the circumstances have changed, the court may decide that the protection order remains in force, be amended or terminated. If no petition for extension is filed, the protection order will terminate automatically on the day of expiration.

An appeal against the decision for a protection order may be filed within eight days from its issuance. Non-execution of the Protection Order is a criminal offence

The duration of the protection order may not be longer than twelve months but with possibility for extension to not more than twenty four months.

(Article 18-20 of LPDV)

In Addition to One of the Orders, the Court may Impose One or More Measures

- Measure for psychosocial treatment of perpetrators is imposed in combination with any other preventive measure, in order to avoid violent behavior or if there is danger of repetition of domestic violence. This measure lasts until the causes on basis of which the measure was imposed come to an end, but can not exceed six months;
- The measure to prohibit the perpetrator to approach the victim, in this case the court determines the distance and the region within which the perpetrator must not approach the victim of domestic violence;
- Measure for not disturbing the persons that were subject to violence if there is a risk of recurrence of domestic violence. With this measure, the custody of the child is temporarily granted to the victim of domestic violence, while the parental right is temporarily waived from the perpetrator of domestic violence;
- The measure for expulsion of the perpetrator from the temporary or permanent residence of the protected party, the person against whom the protected order was issued is obliged immediately to leave the residence in the presence of the police officer ;
- The measure to accompany the victim, is issued in order to protect him/her during the collection of personal property;
- Protective measures for medical treatment for alcohol addiction and psychotropic substances is issued for the perpetrator of domestic violence committed under their influence, in cases when the risk of repetition is present;
- The measure to remove the belonging is issued with the purpose of protecting the person who was subject to domestic violence or to other family members involved;
- Property protection measure ordering the perpetrator of domestic violence to allow the protected party to use the apartment which they jointly use or any part of it. The perpetrator may also be ordered to pay the rent for temporary accommodation, or pay alimony and other obligations in accordance with the findings of the court.

(Article 4-11 of LPDV)

Actions of the Public Prosecutor When As a Result of Domestic Violence a Criminal Offence Was Committed

The issuance of any court order does not prevent interested parties to initiate criminal proceedings, in terms of actions and omissions that constitute criminal offenses. The duty of the Prosecutor extends not only to prosecute these cases, as a constitutional and legal function relating to the punishment of perpetrators of a crime but also to use the entire power of the law to fight such a damaging phenomenon for the family and society as the domestic violence is.

The primary role of the prosecutor is to protect the rights of victims as well as to efficiently exercise prosecution, through filing of the indictment and representing it before the court in all cases where domestic violence has caused consequences to the health of the victim, a consequence which determines the concrete criminal offence, which depending on the case may be life or health damage of the individual, and which are punishable by the Criminal Code of Kosovo, as it follows:

- Murder (Art. 146), aggravated murder Article (147), murder committed in a state of mental distress (Art. 148), negligent murder (Art.149), murder of infants during birth (Art. 150), inciting suicide and assisting in suicide (Art. 151), impermissible termination of pregnancy (Art. 152).
- Light and grievous bodily harm (Art. 153 and 154 of CCK)
- Coercion (Art. 160);
- Threat (Art. 161);
- Unlawful deprivation of liberty (Art. 162 par. 4);
- Rape, including marital rape and sexual assault (Art. 193, 194, 195);
- Degradation of sexual integrity (Art. 196);
- Sexual abuse of persons with mental or emotional disorders or disabilities (Art. 197);
- Unlawful abduction of child (Art. 210);
- Mistreating or abandoning a child (Art. 211);
- Violation of maintenance and family obligations (Art. 212, 213);
- Establishing slavery, slavery-like conditions and force labor (Art. 137); and
- Criminal offences against property committed in family relations, including aggravated theft, misappropriation or taking in possession of immovable property of the victim, including theft in the nature of robbery and damages of the immovable property (Art. 252, 253, 257, 258, 260).



State Mechanisms and Non-Governmental bodies of the Republic of Kosovo Responsible to take care about the Wellbeing of Women and Children

Assembly of the Republic of Kosovo

- Non-formal group of the women in Parliament;
- Parliament Commission for Human Rights and Freedoms, Gender Equality, Missing Persons and Petitions.

Government of the Republic of Kosovo

- The Agency for Gender Equality/Prime Minister Office of the Republic of Kosovo;
- Ombudsperson - Gender Equality Unit;
- Officials for Gender Equality within the Ministry;
- Inter-Ministry Council for Gender Equality;
- Unit on Gender Issues -MAPL.

National Level Mechanisms

- Gender equality officers in the municipalities;
- Municipal committees for gender equality.

Non-Governmental Mechanisms

- Non - Governmental Organizations
- Shelters (in six cities)

Governmental Mechanisms that deal with domestic violence

- Domestic Violence Unit - Kosovo Police Service
- Assistance and Protection of the Victims Unit - Ministry of Justice
- Center for Social Work - Ministry of Work and Social Welfare.
- Shelters

State Institutions

- Police
- Prosecution Offices
- Courts

Attention: The OSCE will publish a remedy catalogue with required information on victims of domestic violence, that will contain a list of institutions and contact telephone numbers. This catalogue will be distributed in court and other relevant institution by the end of 2011.

Contact Information of the Ombudsperson (Lawyer of the people)

Central Office in Prishtina

Address: St. "Bregu i Diellit", Enver Maloku" No:28
Tel: +381 (0) 38 501 401,
Fax: +381 (0) 38 /545 302 038 223 780, 038 548 087
Available from: Monday to Thursday, 10.00 - 14.00

Regional Office in Graçanica

Address: Main Street, In front of the Monastery
Tel: +381 (0) 38 65 118
Tel. mobil: +381 (0) 64 37 111 37 / 044/367-719
Available from: Monday to Thursday, 10.00 – 14.00

Regional Office in Gjiilan

Address: St. Adem Jashari, Municipal Building II
Tel: +381 (0) 280/ 320 843
Available from: Monday to Thursday, 10.00 – 14.00

Regional Office in Prizren

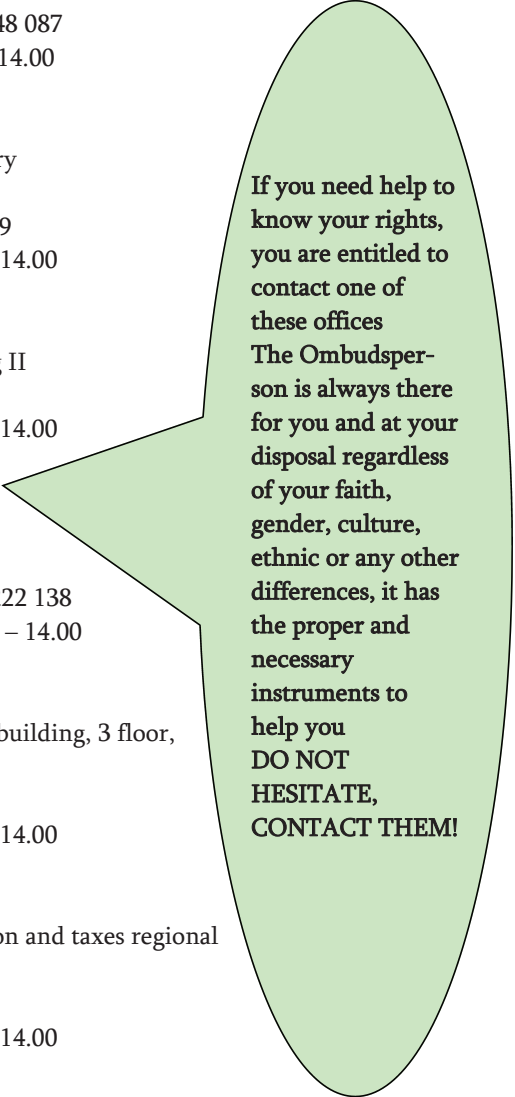
Address: St. "Remzi Ademi", Regional Center,
OSCE- ZR, II, No.20
Tel: +381 (0) 29 /44 200 lok. 109, +381 (0) 29 222 138
Available from: Monday to Wednesday, 10.00 – 14.00

Regional Office in Peja

Address: St. Queen Teuta, No . 59, Municipal building, 3 floor,
no.3
Tel: +381 (0) 39 /432 931
Available from: Monday to Thursday, 10.00 – 14.00

Regional Office in Mitrovicë

Address: Square "Agim Hajrizi", Administration and taxes regional
building
Tel: +381 (0) 28 530 138
Available from: Monday to Thursday, 10.00 – 14.00
Sub-office Mitrovica Region
Address: Trepqa annex, Filipa Visnjica 4
Tel: +381 (0) 63 817 44 79, +377 (0) 44 393 181
Available from: Monday to Thursday, 10.00 – 14.00



If you need help to
know your rights,
you are entitled to
contact one of
these offices
The Ombudsper-
son is always there
for you and at your
disposal regardless
of your faith,
gender, culture,
ethnic or any other
differences, it has
the proper and
necessary
instruments to
help you
DO NOT
HESITATE,
CONTACT THEM!

Web page: <http://www.omudspersonkosovo.org> (in Albanian, Serbian and Turkish)

CONCLUSIONS

Domestic violence is a crime. Therefore, it is very important to report it and initiate a court procedure against it. In order to combat domestic violence, especially violence against woman and children, it is necessary to strengthen the cooperation between state bodies and non-governmental organizations.

In order to reduce the number of domestic violence cases in Kosovo, it is necessary to have a joint vision which will lead us towards joint actions. Kosovo needs to continue to invest in training judges, prosecutors and other actors with the purpose of protecting the victims of domestic violence in the most efficient manner

Thus, a sensitization of all relevant actors and mechanisms in this field is necessary, since domestic violence is a problem that affects all groups and levels of society, without distinction of race, gender, ethnicity, economic level, geographic area, religion, age, etc.

The domestic violence victims should know that:

- Kosovo has the Law on Protection Against Domestic Violence;
- The Law guaranties Protection for the Victims;
- Police has special units for protection of domestic violence victims;
- Prosecutors are obliged based on the law to file an indictment where there is sufficient evidence for commission of the criminal offence as a result of the domestic violence;
- Courts will treat the domestic violence with efficiency and without any discrimination;
- There are organs, non governmental organizations and shelters that support the victims of domestic violence.

SOURCES:

Universal Declaration of Human Rights;

International Convention of Civil and Political Rights;

European Convention of Human Rights;

European Social Charter;

European Convention for Prohibition of Torture and Inhuman Treatment

Convention “On the Elimination of all Forms of Discrimination against Women” (CEDAW);

Recommendation Rec (2002) 5 of Committee of Ministers;

Convention on Child Rights;

Convention on Human right;

Constitution of the Republic of Kosovo;

Law on Family of Kosovo, (Law no.2004/32);

Law on Protection against Domestic Violence (Law No:03/L-182);

Law on Gender Equality, (Law No: 2004/02);

Law on Kosovo Police, (Law No. 03/L-035);

Criminal Code of Kosovo.

Cataloging in publication – (CIP)
The National and University Library of Kosovo

343.55(496.51)(035)

Guidebook for the protection of victims of domestic violence / Prepared by Ramadan Gashi, Lumnije Krasniqi, Mary Agvirre-Shahin. - Prishtina : Kosovo Judicial Institut, 2011. - 40 f. : ilustr. ; 24 cm.

Preface / Lavdim Krasniqi: f. 5

1. Gashi, Ramadan 2. Krasniqi, Lumnije
3. Agvirre-Shahin, Mary

ISBN 978-9951-557-04-7



Instituti Gjyqësor i Kosovës
Kosovski Institut za Pravosudje
Kosovo Judicial Institute

Str. "Muharrem Fejza"
Prishtina, Kosovo
<http://igjk.rks-gov.net>

ISBN 978-9951-557-04-7



9 789951 557047