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## **Gender as a Legal Construct: Procedural and Substantive Dimensions of the Istanbul Convention in Kosovo**

**Abstract:** Gender-based violence (GBV) remains one of the most persistent violations of human rights globally. The Istanbul Convention has emerged as a key legal instrument shaping state responses to GBV through both procedural and substantive obligations. Although not a member of the Council of Europe, Kosovo uniquely incorporated the Convention into its constitutional framework in 2020, signalling a strong commitment to aligning domestic law with international gender equality norms. This article explores the procedural and substantive impacts of that incorporation, analysing reforms to domestic violence legislation, the Criminal Code, and institutional mechanisms modelled on the Convention's four pillars. Drawing on legal analysis and comparative case studies, we examine the progress and limitations of Kosovo's approach. While constitutional adoption reflects a notable step toward gender justice, challenges remain in enforcement, institutional coordination, and the absence of formal monitoring by GREVIO. Nevertheless, Kosovo's civil society engagement and normative innovation offer insights for the implementation of global gender norms outside formal treaty structures.

**Keywords:** gender-based violence, legal reform, Istanbul Convention, Council of Europe, human rights, Kosovo

## 1. Introduction

Gender-based violence (GBV) remains a persistent and widely documented human rights challenge in Kosovo, despite more than a decade of legislative reform. High rates of domestic and intimate-partner violence combined with uneven institutional responses and enduring social norms continue to undermine the safety and autonomy of women and other affected groups. According to the Organization for Security and Co-operation in Europe (OSCE, 2019), 57% of women in Kosovo have experienced some form of violence since the age of 15. Administrative data from the Kosovo Police (2021) similarly indicate that more than 2,000 cases of domestic violence are reported annually, the majority involving women as victims. The COVID-19 pandemic further exposed structural vulnerabilities in protection systems, leading to a surge in GBV cases and disruptions in access to support services (KWN, 2021; Limani & Limani, 2022).

In response to these challenges, Kosovo has pursued an incremental but evolving legal framework addressing domestic violence and gender equality. Prior to 2020, this framework consisted of several key instruments, including the Law on Protection against Domestic Violence (2010), the Law on Gender Equality (2015), and amendments to the Criminal Code (2019). While these measures represent important steps, existing scholarship and monitoring reports have identified persistent gaps related to enforcement, institutional coordination, and the capacity of legal reforms to address the structural dimensions of violence (Danaj, 2020; Farnsworth & Qosaj-Mustafa, 2008; Hajdari, 2014; Qosaj-Mustafa, 2018; Rexhaj, 2018).

Against this backdrop, Kosovo took a legally unusual step in 2020 by incorporating the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) into its constitutional framework. Although Kosovo is not a member of the Council of Europe and therefore not a party to the Convention in formal treaty terms, constitutional incorporation granted the Convention direct legal effect within the domestic legal order. This move has been widely interpreted as an effort to align national law with international standards on the prevention of and response to GBV, while also signalling a broader commitment to norms of gender equality (Council of Europe, 2022; Istrefi & Islami, 2017).

The Istanbul Convention is frequently described in legal and policy literature as a comprehensive international framework addressing GBV through obligations related to prevention, the protection of victims, the prosecution of perpetrators, and coordinated policymaking (AWEN & WAVE, 2019; Jurasz, 2020). At the same time, scholars have emphasized that its effectiveness depends not only on normative alignment but also on domestic institutional capacity, political will, and mechanisms of accountability. In post-conflict and transitional contexts such as Kosovo, these fac-

tors are further shaped by legacies of institutional fragility, legal pluralism, and uneven public trust in state authorities (Fetahu, 2015; Llapushi, 2019).

Research on gender-based violence in Kosovo has consistently highlighted the role of gender norms and power relations, particularly expectations surrounding family authority, women's caregiving roles, and the treatment of domestic violence as a family matter, in shaping both the prevalence of violence and institutional responses (Danaj, 2020; Limani et al., 2025). Survey data reveal a widespread tolerance of intimate-partner violence, particularly among individuals with lower socioeconomic status and those living in rural municipalities (Arenliu et al., 2024; Bërxulli et al., 2024). These attitudes interact with broader structural and institutional factors, influencing how violence is perceived, reported, and addressed by public authorities. Intersectional forms of exclusion, understood here as the cumulative effects of gender, ethnicity, disability, and sexual orientation on access to protection and services, further compound these dynamics, as women from Roma, Ashkali, and Egyptian communities, as well as LGBTQ+ individuals and women with disabilities, often encounter additional barriers in accessing protection, support services, and legal remedies (Akgün et al., 2023; AWEN & WAVE, 2019). Recognizing this plurality of perspectives is essential to avoid treating any single explanatory framework as self-evident and to situate legal reform within its broader social and institutional context. It is within this complex landscape that the incorporation of the Istanbul Convention into Kosovo's legal system must be assessed.

This article examines the procedural and substantive implications of incorporating the Istanbul Convention into Kosovo's legal system. It is guided by three research questions:

- How has the Convention's incorporation affected Kosovo's legal framework on GBV?
- What procedural and substantive barriers continue to undermine effective implementation?
- How does Kosovo's experience compare with that of other Western Balkan countries in terms of institutional enforcement and accountability mechanisms?

By exploring these questions, the paper contributes to broader debates on the domestication of international legal standards, gender determination in legal systems, and the challenges of norm-building in post-conflict societies, particularly in relation to state responses to gender-based violence. Kosovo offers a distinctive case of domestic law being aligned with international human rights norms without formal treaty ratification (Istrefi & Islami, 2017). Its experience highlights both the potential and the limitations of legal reform as a tool for addressing gender-based violence, transforming institutional practice, and reconfiguring gender norms in transitional

contexts, where formal commitments frequently confront entrenched social, cultural, and structural barriers (Fetahu, 2015; Limani & Limani, 2022).

## **2. Methodology and analytical approach**

This article employs a qualitative doctrinal legal methodology, grounded primarily in scholarly literature on gender-based violence, gender equality, and international human rights law. It combines analysis of international legal instruments, domestic legislation, and relevant jurisprudence with insights from peer-reviewed legal and socio-legal scholarship examining the regulation of gender-based violence and the institutional conditions shaping legal implementation. The primary focus is on assessing the procedural and substantive obligations arising from the Istanbul Convention and their incorporation into Kosovo's domestic legal framework.

The analysis draws on a range of legal sources, including treaty texts, explanatory reports, decisions of the European Court of Human Rights (ECtHR), and interpretive guidance issued by international bodies such as the Council of Europe and the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In addition, reports produced by international organizations and civil society actors are used as supplementary sources to contextualize legal developments, policy choices, and implementation challenges. While such grey literature often reflects normative or policy-oriented perspectives, it is treated here as indicative of prevailing institutional practices and governance priorities rather than as neutral empirical evidence. The analytical approach remains attentive to the broader scholarly debate on the causes and regulation of gender-based violence. This includes literature emphasizing gender norms and power relations, as well as work highlighting post-conflict governance dynamics, administrative capacity, and socioeconomic constraints.

By combining doctrinal legal analysis with contextual interpretation informed by both scholarly and policy sources, the article evaluates the normative ambition of the Istanbul Convention as well as the practical limits of its operationalization in transitional institutional settings such as Kosovo. Lastly, this article does not treat law as inherently progressive nor tradition as inherently static but rather understands both as culturally embedded and contested frameworks whose interaction shapes the effectiveness of GBV regulation.

## **3. The Istanbul Convention: A framework for law on gender-based violence**

The Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence, commonly known as the Istanbul Convention, is a comprehensive international treaty addressing GBV in all its forms. Adopted

in 2011 and entering into force in 2014, the Convention defines GBV as both a human rights violation and a form of gender-based discrimination, and obliges states to prevent violence, protect victims, prosecute perpetrators, and implement coordinated policies (Council of Europe, 2011).

### 3.1. Reframing GBV as a human rights violation

The Istanbul Convention is widely described in legal and policy literature as marking a normative reorientation in how international law conceptualizes gender and gender-based violence. From its earliest provisions, it has reconceptualized GBV not merely as a symptom of discrimination or isolated harm but as a systemic violation of fundamental human rights rooted in historically unequal power relations (Council of Europe, 2011). This framing translates into robust due diligence obligations for states to prevent, investigate, and redress violence, including by non-state actors. The ECtHR case of *Opuz v. Turkey* (2009) underscored this; it ruled that Turkish authorities' inaction violated multiple rights (Cusack, 2009). The Court referenced the Convention's Explanatory Report, which recognizes that state inaction itself may constitute a violation (Council of Europe, 2011, pp. 9, 11, 29). Moreover, the Convention's Preamble links the 'structural nature' of violence to historically unequal gender relations, reflecting a feminist legal understanding that situates violence within broader power hierarchies. It identifies GBV not as incidental abuse but as a mechanism for maintaining gender hierarchies. Within this framework, ending violence is reframed as a precondition for achieving substantive gender equality, rather than as an isolated social-policy goal (Jurasz, 2020; Orme, 2021).

A second conceptual breakthrough lies in the Convention's formal definition of gender as 'socially constructed roles, behaviours, activities and attributes' associated with women and men (Art. 3c). While earlier instruments, such as the CEDAW, implied this understanding, none had previously codified it so explicitly. This shift moves gender beyond biological categories, recognizing that cultural prescriptions, such as social expectations for wives, daughters, or mothers, are often at the root of violence. The Convention's definition has been cited in constitutional court rulings and embedded in domestic legislation that criminalizes cyberstalking, economic abuse, and forced marriage, demonstrating its catalytic impact on both jurisprudence and policymaking (Council of Europe, 2012).

In moving from definitional clarity to normative obligation, the Convention enforces horizontal non-discrimination duties under Article 4. States are called upon to guarantee the rights of all women, particularly those experiencing intersecting forms of discrimination based on race, disability, sexual orientation, migration status, or age. This principle aligns with the CEDAW Committee General Recommendation 35 (2017), which articulates a strong normative position on states' obligations to prevent and address gender-based violence and emphasizes intersectionality as a framework for identifying how overlapping forms of disadvantage shape access to legal remedies,

protection services, and institutional responses. While influential, the Recommendation constitutes soft law and reflects an evolving interpretive approach rather than settled customary international law.

Finally, these normative developments are embedded in the Convention's enforcement structure. Article 5 operationalizes due diligence obligations, closing the gap between structural critique and victim-centred remedies. States are no longer permitted to treat GBV as a private matter; failure to fund shelters, collect data, or train judges can now trigger condemnation from the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and, ultimately, international liability.

### **3.2. Core state obligations and GREVIO monitoring**

The Convention's obligations rest on four pillars: prevention, protection and support, prosecution, and coordinated policy integration. Prevention (Arts. 12–17) includes public awareness, education, media representation, and professional training. Protection (Arts. 18–28) ensures access to services like shelters, helplines, and psychosocial support, including for (a) undocumented women and (b) children who witness violence. Prosecution (Arts. 49–58) demands states remove barriers to justice, prohibit mediation in violence cases, and adopt consent-based rape definitions (Art. 36), shifting the burden from physical resistance to autonomy (Zamfir, 2025). Coordinated policy (Arts. 7–11) requires the creation of national bodies for strategy, data collection, and civil society partnerships. These pillars convert policy suggestions into binding legal norms.

The Convention reiterates due diligence (Art. 5) and embeds horizontal principles (Arts. 4 and 6), requiring gender mainstreaming and non-discrimination in all areas, including migration, disability, and LGBTQ+ policies. GREVIO conducts periodic evaluations combining self-assessments, site visits, and public reports (Council of Europe, 2024a). While non-binding, these evaluations shape reforms and public accountability. The Convention's flexible, technologically neutral language enables it to adapt to digital harms, including cyberstalking, psychological violence (Art. 33), and non-consensual image sharing (Art. 34).

### **3.3. Intersectionality and inclusive protections in the Istanbul Convention**

The Convention explicitly incorporates an intersectional approach to protection through its provisions on non-discrimination and access to services. Article 4.3 prohibits discrimination on a wide range of grounds and places obligations on states to remove barriers that limit access to protection and support services for marginalized women. The Convention's attention to intersectionality operates primarily through non-discrimination obligations and service access requirements, rather than through a standalone doctrinal test. It further requires that support services be accessible, culturally appropriate, and adequately resourced, and encourages the use of disaggre-

gated data to identify service gaps. It also mandates the participation of civil society organizations, particularly those representing underserved communities, in policy design and implementation. These provisions aim to enhance responsiveness to lived experiences and improve the effectiveness of state interventions.

However, legal scholarship has noted that the Convention's broad normative scope presents both strengths and limitations. While it has contributed to the development of legal and policy frameworks addressing gender-based violence across Europe and beyond, its implementation has been uneven, and its reliance on domestic political will and institutional capacity has constrained its transformative potential (Barszcz, 2024; Jurasz, 2020; McQuigg, 2017; Orme, 2021). GREVIO, the Convention's monitoring mechanism, operates through reporting, dialogue, and public recommendations but lacks coercive enforcement powers, contributing to persistent compliance gaps even among state parties.

Researchers have further cautioned against an overreliance on formal alignment, noting the proliferation of national strategies and action plans without corresponding improvements in survivor protection or accountability outcomes (AGE, 2020; AWEN & WAVE, 2019; Lepusheva et al., 2024). These critiques underscore that while the Convention provides an important legal framework for inclusive protection, it does not in itself resolve the structural and institutional conditions that underpin gender-based violence.

#### **4. Implementation in Kosovo: From alignment to action**

Kosovo's incorporation of the Istanbul Convention into its constitutional and legal framework represents an important moment of normative alignment with international standards on gender-based violence (Divellec & Miller, 2017). Following the constitutional incorporation of the Convention in 2020 through Amendment no. 26, Kosovo initiated a series of legislative and policy reforms aimed at harmonizing domestic law with Convention obligations. These included amendments to the Law on Protection against Domestic Violence (Law no. 03/L-182) to reflect Convention definitions and victim-centred principles, as well as the adoption of a revised Criminal Code (Law no. 06/L-074), which introduced consent-based definitions of sexual violence, economic violence, and other gender-based offences. In parallel, Kosovo adopted the National Strategy on Protection from Domestic Violence and Violence against Women 2022–2026, which articulates a multi-sectoral and gender-sensitive approach to prevention and service provision. Together, these measures established the formal legal and policy framework for implementation across relevant sectors.

To operationalize these statutory commitments, Kosovo adopted a set of implementing by-laws in early 2025 that specify institutional roles, coordination mechanisms, and service delivery procedures. Regulation no. 01/2025 on Local Co-

ordinating Mechanisms establishes a multi-sector body in each municipality and defines its composition and responsibilities. The regulation brings together municipal administrators, health professionals, the police, justice institutions, gender equality officers, and civil society organizations, and requires the development of local action plans, risk assessments, budgeting processes, and reporting obligations (Arts. 4–6). This structure corresponds to Articles 18 and 22 of the Istanbul Convention, which emphasize integrated service provision and inter-agency cooperation.

Complementing these coordination mechanisms, Administrative Instruction no. 01/2025 on the Emergency Telephone Line for Victims of Domestic Violence, Violence against Women, and Gender-Based Violence establishes a national, 24/7 hotline operated by specialized non-governmental organizations and financed by the Ministry of Justice (Arts. 4–6). The instruction mandates the provision of immediate support, crisis intervention, multilingual access, and referrals to relevant services, reflecting the requirements set out in Article 24 of the Convention. Finally, Administrative Instruction no. 02/2025 on Emergency Services for Victims during Police Stays introduces a dedicated budget line for the provision of immediate assistance to victims following police intervention. The instruction provides for necessities, medical care, and psychosocial support, and assigns responsibility to social-service managers for coordinating immediate responses and submitting periodic reports (Arts. 6–9), corresponding to Article 20 of the Convention.

Altogether, these by-laws illustrate an effort to translate formal legal alignment with the Istanbul Convention into concrete administrative arrangements and service pathways. At the same time, their capacity to address longstanding implementation gaps remains contingent on resourcing, institutional coordination, and effective oversight at the municipal and national levels.

#### **4.1. Coordination and administrative capacity**

A major obstacle to implementation of this advanced legislation lies in the fragmented institutional architecture. Although the 2023 Law on Prevention and Protection from Domestic Violence, Violence against Women and GBV formally designates the Office of the National Coordinator, appointed by the prime minister, to lead inter-ministerial coordination, this office often lacks operational autonomy, dedicated staffing, and enforcement power (AGE, 2020; Limani & Limani, 2022). It does not have the authority to compel compliance from other institutions or to standardize monitoring processes across ministries. This reflects broader weaknesses in public administration, where implementation is often hampered by overlapping mandates, weak enforcement mechanisms, and bureaucratic inertia (Llapushi, 2019).

Also, the gender equality architecture, composed of gender equality officers (GEOs) embedded in ministries and municipalities, is similarly constrained. GEOs are often appointed without adequate resources, training, or decision-making authority. Their roles are often weak, and their ability to participate meaningfully in policy

design or budget planning continues to remain limited. In practice, gender mainstreaming is applied inconsistently across sectors and localities. Some municipalities lack GEOs entirely or fail to include them in strategic decision-making bodies, undermining the principle of institutional coherence mandated by the Convention (AGE, 2020; Canaj, 2021).

#### **4.2. Victim-centred support services and the role of civil society**

The Istanbul Convention obliges states to ensure comprehensive, accessible, and victim-centred support services, including shelters, helplines, legal aid, and psychosocial assistance. In early 2025, Kosovo adopted three administrative by-laws aimed at operationalizing these obligations: the establishment of local coordinating mechanisms (LCMs) at the municipal level, the launch of a 24/7 emergency telephone line for victims, and the creation of emergency service protocols and funding mechanisms during police intervention. These measures reflect formal alignment with Convention standards; however, their implementation remains uneven and heavily dependent on civil society actors.

In practice, victim support services in Kosovo are found to be unevenly distributed, particularly in rural areas and among minority communities (Hajdari, 2014; KWN, 2021). Although the 2023 law assigns municipalities responsibility for shelter provision, most shelters continue to be operated by non-governmental organizations and rely on short-term donor funding or intermittent central government subsidies. Only a limited number of municipalities have allocated stable budget lines for shelters, and the absence of a national licensing or accreditation framework contributes to inconsistent service standards across providers (AGE, 2020; Fetahu, 2015). Shelters also face persistent staffing shortages and limited access to clinical supervision, particularly for survivors with complex needs such as disabilities, mental health conditions, or extensive trauma histories (Akgün et al., 2023; AWEN & WAVE, 2019).

Civil society organizations (CSOs) remain central to GBV service delivery, prevention, and advocacy, often filling gaps left by state institutions in Kosovo. Many CSOs have provided shelter, counselling, and hotline services for decades, yet their role within formal governance structures remains precarious. While Regulation no. 01/2025 formally includes CSOs as members of LCMs, participation is frequently informal or project-based, with no clear standards governing their representation, decision-making authority, or long-term institutionalization (Canaj, 2021; KWN, 2021; Qosaj-Mustafa, 2018). This limits the sustainability of services and reinforces dependence on external donors.

These structural gaps have particularly adverse effects on survivors facing intersecting forms of exclusion, including compounded barriers related to ethnicity, disability, language access, and institutional mistrust. Roma, Ashkali, and Egyptian women, as well as ethnic minorities, LGBTQ+ survivors, and persons with disabilities, encounter additional barriers related to language, discrimination, and institu-

tional distrust, which are insufficiently addressed through current service models (Akgün et al., 2023; Bërxulli et al., 2024; Hajdari, 2014; Kelmendi, 2014). Although the 2022–2026 National Strategy emphasizes inclusive and intersectional service provision, it lacks a dedicated implementation budget and its monitoring indicators remain vague. The absence of systematically disaggregated data by gender, ethnicity, or disability further obscures structural inequities and limits evidence-based policy intervention (Kosumi, 2024; Limani et al., 2023; Llapushi, 2019).

## **5. Structural and cultural barriers**

Even where Kosovo's legal and policy frameworks align with international standards, the realization of GBV protections are constrained by entrenched structural inequalities and patriarchal social norms. These barriers shape both institutional responses and survivors' willingness or ability to seek justice, particularly in rural areas and among marginalized communities.

### **5.1. Legal pluralism and informal justice**

One of the most pressing challenges is the persistence of legal pluralism, where customary and informal justice mechanisms coexist and sometimes compete with the formal legal system. In rural municipalities, survivors often face pressure to resolve violence through family mediation, religious institutions, or community members, rather than pursuing criminal or civil remedies. These alternative mechanisms, while sometimes viewed as accessible, rarely centre the rights or safety of the survivor and often prioritize family unity or community reputation over accountability (Limani & Limani, 2022; Llapushi, 2019).

While the Istanbul Convention explicitly prohibits mandatory mediation in cases of domestic violence (Art. 48), informal settlement remains prevalent, particularly where the police, prosecutors, or judges defer to customary norms. This undermines not only victims' access to justice but also the state's due diligence obligations to prosecute and prevent GBV. The disconnect between law and local practice reflects broader issues of institutional reach and trust: survivors may be reluctant to engage with authorities due to fear of retaliation, stigma, or disbelief (Arenliu et al., 2024; Qosaj-Mustafa, 2018).

### **5.2. Cultural norms and tolerance of violence**

Social tolerance of GBV remains high across Kosovo, particularly in low-income and rural communities, where traditional gender norms, such as expectations of female obedience, male authority, and family honour, continue to dominate (Limani, 2019). Surveys reveal that many respondents, both men and women, justify violence under certain circumstances, such as perceived disobedience or threats to family

honour (Arenliu et al., 2024; Bërxulli et al., 2024). These norms are deeply internalized and often reproduced through the family, education, and the media, creating an environment in which violence is normalized and underreported.

Women from marginalized groups, including Roma, Ashkali, and Egyptian communities, as well as LGBTQ+ individuals and women with disabilities, are particularly vulnerable to intersectional discrimination. They face compounded barriers such as language exclusion, economic dependence, and fear of a community backlash when seeking services or legal redress (Akgün et al., 2023; AWEN & WAVE, 2019). The lack of culturally and linguistically tailored services exacerbates these exclusions, rendering formal protections inaccessible or ineffective.

### **5.3. Stigma, silence, and mistrust of institutions**

Beyond individual attitudes, survivors often encounter widespread stigma that discourages disclosure and seeking help. In many communities, speaking out about violence can lead to social isolation, economic abandonment, or public shaming. Survivors may be blamed for the abuse or pressured to reconcile with the perpetrator to avoid family disruption. This is particularly acute in cases involving marital rape or non-physical forms of violence such as economic control or coercive behaviour, which are often not recognized as legitimate harms by community members or local officials (Fetahu, 2015; Morina et al., 2023). This environment contributes to low reporting rates and limited follow-through on investigations or prosecutions. Even when survivors report violence, many withdraw complaints, citing fear, lack of trust, or dissatisfaction with institutional responses. Studies show that survivors frequently face secondary victimization, including being disbelieved, blamed, or subjected to insensitive procedures, which undermines confidence in institutions and perpetuates silence (Kelmendi & Jemini-Gashi, 2022; Limani & Limani, 2024; Zamfir, 2025). Police and judicial personnel may dismiss or minimize reports, particularly when victims lack visible injuries or when perpetrators are socially or politically influential (Hajdari, 2014; Qosaj-Mustafa, 2018).

While training and awareness programmes for public officials have been launched under donor-funded projects, these remain episodic and unevenly implemented, with little impact assessment or long-term institutionalization. As a result, attitudinal change within institutions has lagged behind legal reforms, limiting the survivor-centred orientation the Convention demands.

## **6. Monitoring without membership: GREVIO and the Council of Europe in Kosovo**

The Istanbul Convention is characterized by a comprehensive normative framework and an accompanying monitoring mechanism, the Group of Experts on Action

against Violence against Women and Domestic Violence (GREVIO). This group of experts monitors compliance across Member States through independent evaluations combining official reports, civil society submissions, on-site visits, and public recommendations (Council of Europe, 2024a). However, as a non-member of the Council of Europe, Kosovo is ineligible for GREVIO evaluation. In practice, this means that, despite integrating the Convention into its legal framework, Kosovo lacks the external accountability and binding scrutiny that GREVIO provides, resulting in a structural implementation gap. To address this void, the Council of Europe commissioned a consultant-led baseline assessment in November 2022 to review Kosovo's alignment with the Convention. The report, grounded in legal analysis, stakeholder interviews, and institutional data, found that Kosovo's legal framework is substantially aligned with Convention standards. However, persistent gaps remain in service provision, funding sustainability, and inter-institutional coordination. Data collection remains inconsistent and fragmented, particularly regarding disaggregated demographics. It also noted that informal norms and legal pluralism continue to obstruct effective implementation (Council of Europe, 2022).

While this assessment provided valuable benchmarking and policy direction, especially informing the 2023 legislation, it lacks GREVIO's authority to issue binding recommendations or trigger follow-up cycles. This underscores a key finding: soft norm diffusion can influence reform, but without formal monitoring, the pathway from legal alignment to institutional change remains fragile.

### **6.1. The paradox of progress without ratification**

Kosovo's case presents a paradox: despite not being a member of the Council of Europe, and therefore not a party to the Istanbul Convention, it has voluntarily aligned much of its legal and policy framework with the Convention's core standards. This strategic alignment has enabled it to advance domestic reforms in line with international norms, including the adoption of the Law on Protection from Domestic Violence (2023) and the integration of due diligence standards across multiple state strategies.

However, this normative alignment has occurred without the full procedural benefits of ratification, particularly access to GREVIO's binding monitoring and follow-up mechanisms. Instead, progress has relied on soft law diffusion, donor incentives, and civil society advocacy. While these factors have catalysed notable reforms, they do not guarantee continuity or institutional accountability in the absence of formal treaty obligations. This paradox also invites reflexive scrutiny of the role accorded to international law itself, raising uncomfortable questions about whether legal alignment and external monitoring are sometimes overestimated as drivers of social and institutional transformation, particularly in contexts marked by deep structural inequality, post-conflict governance, and entrenched gender norms. Moreover, the absence of ratification limits Kosovo's ability to influence the evolution of the Convention itself. Without a seat at the table in GREVIO or the Committee of the

Parties, which is the political body overseeing implementation of the Convention, Kosovo cannot contribute to interpretive developments or propose revisions. This exclusion raises broader questions about democratic legitimacy, especially as Kosovo fulfils the obligations of a party without enjoying full participatory rights.

The paradox is also visible at the societal level. Legal reforms have outpaced cultural and institutional change, creating an implementation gap that undermines the effectiveness of rights-based approaches. Without robust monitoring and follow-up, there is a risk that progress may stagnate or regress under shifting political priorities.

## **7. Regional comparison: WB6 approaches to the Istanbul Convention**

Kosovo's adoption and implementation of the Istanbul Convention, while legally ambitious, exists within a regional landscape of uneven compliance, structural barriers, and cultural resistance to gender equality. Kosovo faces many of the same implementation challenges as its Western Balkan neighbours, Albania, North Macedonia, Montenegro, Serbia, and Bosnia and Herzegovina (collectively termed the WB6). Across the WB6, institutional capacity to implement the Convention remains limited, and legal frameworks, while formally aligned with the Convention, often suffer from poor enforcement (Lepusheva et al., 2024). For instance, Albania criminalizes domestic violence and provides civil protection orders, yet shelter and reintegration services are inconsistent and heavily reliant on donor funding. North Macedonia and Montenegro struggle with limited gender budgeting, and their national strategies on GBV are often disconnected from actual budget allocations or effective service provision (AWEN & WAVE, 2019; Danaj, 2020). Serbia has undergone a legal reform to align with the Convention, but enforcement gaps persist in the form of police inaction, ineffective restraining orders, and low prosecution rates (AWEN & WAVE, 2019). Bosnia and Herzegovina's fragmented, decentralized governance results in unequal service access across cantonal entities, complicating coherent implementation.

Kosovo shares many of these challenges, such as institutional fragmentation, donor dependence, and stigma toward survivors, but differs in one critical aspect: its exclusion from formal GREVIO monitoring due to its non-member status in the Council of Europe. While other WB6 countries are periodically reviewed by GREVIO, resulting in binding recommendations and follow-up cycles, Kosovo relies on alternative mechanisms such as donor-funded evaluations, shadow reports by civil society, and consultant-led assessments by the Council of Europe (Council of Europe, 2022). This reliance on non-binding assessments reduces the external accountability pressure and weakens the capacity to institutionalize reforms in a sustainable and consistent way.

Moreover, despite the normative strength of Kosovo's legal framework, including constitutional recognition of the Convention, practical enforcement lags behind. This mirrors regional trends in which laws on gender equality, anti-discrimination,

and protection from GBV exist but are often poorly implemented due to limited judicial training, discretionary interpretation, and underfunding (Danaj, 2020; Rexhaj, 2018). For example, while Albania and North Macedonia have national coordination mechanisms, their effectiveness is undermined by unclear institutional roles and insufficient political will, issues also evident in Kosovo's GBV response system.

Civil society organizations play a leading role across the region in bridging the gap between survivors and institutions. In Kosovo, groups such as the Kosovo Women's Network (KWN) and Shelter Coalition have been instrumental in monitoring, providing services, and lobbying for reform (KWN, 2021). Similar dynamics exist in Albania and North Macedonia, and to some extent in Montenegro, Serbia, and Bosnia and Herzegovina. However, across the region, including in Kosovo, overreliance on CSOs presents a structural vulnerability, as many services remain unsustainable without external funding (AGE, 2020; AWEN & WAVE, 2019; Limani & Limani, 2022).

Comparative research underscores the persistence of patriarchal norms and gender stereotypes in all WB6 societies (Limani, 2023; Remiković & Sjoberg, 2024). The public in Kosovo demonstrates high tolerance for intimate-partner violence, and similar patterns are observable in Serbia, Bosnia, and Albania, where victim-blaming and appeals to 'honour' continue to influence community attitudes and institutional behaviour (Arenliu et al., 2024; OSCE, 2019). Religious and nationalist narratives are also mobilized across the region to resist gender equality, framing international conventions as foreign impositions. Kosovo has experienced a similar backlash from conservative actors opposing the Convention on grounds of cultural tradition (Danaj, 2020). Nonetheless, there are early signs of generational change. In Kosovo, young people, particularly women, express stronger support for gender equality and reforms, a trend echoed to varying degrees across the region (Bërxulli et al., 2024; Canaj, 2021). However, such shifts remain uneven, particularly outside urban centres and among less educated populations.

Altogether, while Kosovo has demonstrated legal commitment and relative normatively ambitious positioning among the WB6 in integrating the Istanbul Convention, practical enforcement, institutional coordination, and societal transformation face challenges strikingly similar to those encountered by neighbouring countries.

## Conclusions

Kosovo's voluntary adoption and constitutional integration of the Istanbul Convention marks a legally significant step in advancing the rights and protection of survivors of GBV. Unlike other Western Balkan countries, Kosovo undertook this commitment in the absence of formal Council of Europe membership or external obligation, demonstrating an ambitious normative positioning in aligning its legal and policy frameworks with international human rights standards. This commit-

ment is especially notable given the country's post-conflict context, transitional governance structures, and limited resources. Moreover, Kosovo has made substantial progress in domesticating the Convention: its legal framework criminalizes various forms of GBV, institutions have adopted action plans and protocols, and civil society plays an active role in monitoring and supporting survivors. These advances signal a genuine intent to uphold the principles of prevention, protection, prosecution, and coordinated policies, even in the absence of formal GREVIO oversight. Yet, as this article has shown, implementation remains uneven. Kosovo continues to face many of the same challenges encountered by its regional counterparts: underfunded services, inconsistent inter-institutional coordination, and persistent social norms that normalize GBV and stigmatize survivors. These limitations are further compounded by the lack of formal international monitoring, which reduces opportunities for structured accountability and peer benchmarking.

Despite these obstacles, Kosovo's experience offers important lessons for other states aspiring to adopt the Convention. Its voluntary alignment demonstrates how international legal frameworks can be used proactively as tools for national reform and norm-building, even outside formal treaty regimes. It also underscores the importance of local agency, political will, and civil society engagement in driving gender equality reforms from within. To build on this progress, Kosovo should continue to institutionalize and sustainably finance GBV services, including shelters, and to offer psychosocial support and legal aid, particularly in underserved and minority communities. It should enhance coordination mechanisms across central and local government to ensure policy coherence and functioning referral pathways. Public education and prevention efforts need to be expanded through school curricula, media campaigns, and community dialogues aimed at challenging entrenched gender norms. Capacity-building initiatives should prioritize trauma-informed training for justice and law enforcement actors to ensure a survivor-centred response. Independent monitoring and evaluation should be strengthened through partnerships with international bodies, periodic assessments, and civil society shadow reporting. Finally, Kosovo could benefit from deepening regional cooperation to exchange good practice and align its responses against GBV with broader Western Balkan efforts.

In conclusion, while Kosovo's journey toward full implementation of the Istanbul Convention is ongoing, its voluntary and proactive approach deserves recognition. The country's commitment to embedding gender equality and eliminating GBV within its legal and institutional architecture, despite the constraints of a post-conflict and transitional setting, suggests the potential for meaningful progress even in the absence of external obligation. As GBV continues to threaten the safety, dignity, and rights of women and marginalized groups, Kosovo's example underscores the urgent need to move beyond legal alignment toward the full realization of the Convention's intended effects.

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