

DIFFERENCES ARE VALUE – NOT BARRIER

ANALYSIS OF THE COMPATIBILITY OF THE LEGAL FRAMEWORK OF KOSOVO WITH THE UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

ACCESSIBILITY AND PARTICIPATION IN PUBLIC AND
POLITICAL LIFE

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Design, layout, and printing: Metro Print

Publisher:

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Project:

“Disability Alliance for the Development of Inclusive Reforms in the Region” (DADIRR),

Financially Supported from the Ministry of Foreign Affairs of Norway

This report was developed with the support of the “SMART Balkans – Civil Society for Shared Society in the Western Balkans” regional project implemented by Centar za promociju civilnog društva (CPCD), Center for Research and Policy Making (CRPM) and Institute for Democracy and Mediation (IDM) and financially supported by the Norwegian Ministry of Foreign Affairs (NMFA). The content is the sole responsibility of the project implementers and does not necessarily reflect the views of the Norwegian Ministry of Foreign Affairs (NMFA).

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ACRONYMS

AI – Administrative Instruction

CEC – Central Election Committee

CPWD – Council of Persons with Disabilities

CRPD – Convention on the Rights of persons with Disabilities

CSOs – Civil Society Organizations

DPOs – Disabled People Organization's

EU – European Union

GRK – Government of Republic of Kosovo

HANDIKOS – Association of persons with Paraplegics and Children paralysees of Kosovo

ICT – Informative and Communication Technology

KAD – Kosovo Association of the Deaf

KAB – Kosovo Association of the Blind

LWGA – Legislative Working Group for Accessibility

LWGP – Legislative Working Group for Participation

OGG – Office on Good Governance

PWD – Persons with Disabilities

PP – Polling Places

SDG – Sustainable Development Goals

UN – United Nations

SUMMARY OF FINDINGS

- The International Convention on the Rights of Persons with Disabilities (CRPD) is a binding international instrument for the states that have accepted and ratified it, which regulates the rights of persons with disabilities. One of the main requirements of the Convention is that the signatory states harmonize their national legislation with the requirements of this Convention.
- This report aims to present the analysis of the legal framework of Kosovo in relation to the Convention on the Rights of Persons with Disabilities and the Recommendations of the UN Committee on the Rights of Persons with Disabilities, namely Article 9, for accessibility and Article 29, for participation in public and political life. For the purpose of this analysis, the requirements of Article 9 and 29 of the CRPD have been compared with the legislation of Kosovo that addresses these areas with special emphasis in the field of access to physical environment, transport, information and communication and public services, while in the field of participation in public and political life, participation in voting and elections, representation in public institutions, representation of persons with disabilities (PWD) at international, national, regional and local levels and participation in non-governmental organizations including the representation of organizations. Both of these areas of the research have been evaluated in the context of the principles of non-discrimination guaranteed by the constitution and relevant laws where disability is one of the bases for discrimination. A brief overview is dedicated to the institutional framework that are responsible for the implementation of legislation at the national and local level.
- For the purposes of this analysis, the research is based on the methodology defined by the requestor of this report and other methods combined by the expertise of the working groups and the author of the report. Considering that the analysis is carried out in parallel in three participating countries in the project "Disability Alliance for the Development of Comprehensive Reforms in the Region" (DADIRR), Kosovo, North Macedonia and Albania, it is intended that the results of the analysis are comparable according to these two areas for all participating countries with the aim of creating a unified basis for determining recommendations to improve legislation in the sectors defined at the national level and assist in the implementation of project activities at the regional level. The findings in the report are the result of the research of the local legislation, the Convention with the interpretations of the content of the articles of the Convention, the reports of the relevant Committees within the Convention, the reports and analyses of various local and international organizations, interviews and formal and informal consultations with the organizations of persons with disabilities and the results of the work of two (2) working groups (legislative working group for accessibility and legislative working group for participation, together with the intervention of persons with disabilities and civil society representatives for preparing the Draft Analysis of the Legal

Framework in Kosovo for the accessibility and participation areas including the recommendations for intervention.

- The research has identified the current legal infrastructure (legislation and institutions) applicable in Kosovo, including the Constitution of Kosovo as the highest political and legal act which has addressed disability issues in the relevant areas of this research. These legal acts have been evaluated in relation to the CRPD, Article 9 and 29 of the Convention, which refer to accessibility and participation in public and political life and in relation to the requirements of the UN Committee on the Rights of Persons with Disabilities that materialized these areas within the Convention. In reference to the approach, article 9 of the Convention and the UN Committee, among others, have included: independent living; full participation in all aspects of life; equal access to the physical environment; equal access to transportation; equal access to information and communication, including information and communication technologies and systems; equal access to other facilities and services open or provided to the public, both in urban and rural areas. While, in reference to participation in public and political life, they are included but not limited to the right to participate in voting, to participate actively in the process and to be a candidate for election, the right to hold office and to perform all public functions at all levels of government, the right to participate in non-governmental organizations and to represent organizations and representation of persons with disabilities at international, national, regional and local levels.
- In accordance with the requirements of Article 9 and 29 of the Convention, a brief review has also been made in the EU Strategy for the Rights of Persons with Disabilities 2021 – 2030 – Union for Equality and Sustainable Development Goals that address disability in order to support the needs for interventions in the harmonization of legislation.
- The legal provisions which have been analysed in comparison with the relevant areas of the Convention for this research include: the Constitution of the Republic of Kosovo; *Law for Blind Persons*; *Law on the Status and Rights of persons with Paraplegia and Tetraplegia*; *Law on Vocational Ability, Rehabilitation and Employment of Persons with Disabilities*; *Law on Pension Schemes financed by the state*; *Law on General Elections*; *Law on Local Elections*; *Law on Freedom of Association in Non-Governmental Organizations*; *Law on Protection from Discrimination*; *Administrative Instruction No. 33/2007 for Construction Buildings Technical Terms of Accessibility for Persons with Disabilities*; *Regulation of GRK No. 15/2014 for the Provision of the Sign Language Services in the Republic of Kosovo*. These legal acts have treated disability in a special manner, based on the type of disability (physical damage, sensory damage, intellectual damage, etc.). Disability has been addressed by other specific laws and acts, legal provisions for persons with disabilities are also found in general laws for various fields which were not analysed for this research. Also, there are disability policy documents, such as the National Strategy for the Rights of Persons with Disabilities 2013–2023, the Action Plan for the Rights of Persons with Disabilities in the Republic of Kosovo (2021 –

2023), but because this was the last year for implementing these strategic documents, they were not evaluated for the purpose of this research.

- The current legislation in Kosovo is not in harmony with the UN Convention, namely with the requirements of Article 9 and 29 of the Convention and the Recommendations of the UN Committee on Persons with Disabilities in these specific areas. Despite all the guarantees offered by the Constitution, we are in this situation due to the fact that many legal provisions that would address the selected areas as a whole are missing. The legal provisions that exist are not in contradiction with the requirements in these areas, however, considering that the complete addressing of specific areas is missing, we conclude that there is a need for a comprehensive review of the current legislative framework and drafting of the new legal framework for disability in accordance with CRPD. The scope of the requirements under the Convention is wide; the entire public sector and not only, the entire sector in which services are provided to the public, meaning also the private sector which is in function of providing public services, including urban and rural areas, the inclusion and consultations with persons with disability and the organizations consisting of persons with disabilities in matters of public interest and especially in matters related to disability, etc.
- Access/accessibility, as one of the basic pre conditions for persons with disabilities to be able to exercise and implement their rights guaranteed by the Convention is not explicitly addressed in legal acts in Kosovo. While the accessibility components such as physical environment, transport, information and communication and components about public services are included. However, none of the components of the access which include urban and rural areas have been fully addressed. The legal provisions for these issues are *distributed* in several primary and secondary legal acts, e.g. provisions for infrastructure are found in separate laws and other legal acts; they are fragmented
- because parts of the accessibility components are found in one or more legal acts distributed over several provisions, e.g. public services are scattered and undefined; they are incomplete because in all provisions one institute has been addressed but other institutes have not been addressed that will enable the full realization of the component, for example, we found exemptions/benefits for traveling with the public transport but there are no provisions on how this benefit can be used because people with physical injuries due to physical barriers on the roads and the buses cannot use them. There are components of the accessibility that are not addressed at all in any piece of legislation, e.g. universal design tools, etc. The factual situation turns out to be even worse if we analyse the implementation of these provisions, because PWDs and DPO's stated that in some cases they are implemented and in some cases they are not. The implementation mainly takes place in Pristina, or somewhere in other urban areas, while in rural areas it is out of the question.
- The legal provisions that address *Participation in public and political life* are more focused and summarized. But this finding only applies to the component for

participation in voting process for persons with disabilities considering that the law on general elections has specifically addressed the voting of persons with disabilities and has provided solutions for procedures including information and communication. However, DPO's representing different groups of person with disabilities emphasized that those provisions have not yet been fully implemented because in a large number of polling places/centers there is no physical access for wheelchair users due to barriers or because the polling places are on the upper floors where there is no access with the elevator or any other means, while the situation is even worse in the part regarding the right to be elected because there is no legal provision that defines the requirement for a certain number of representatives of PWDs. Whereas, the rest of this field, such as representation in public institutions, representation of persons with disabilities at international, national, regional and local levels, although it is not limited in a general sense, is addressed slightly or not at all in the legal provisions of these laws or any other law therefore the participation of persons with disabilities related to these components is low and only symbolic. The most adequate representation at the central institutional level is reflected only in CPWD, which is chaired at the level of the position of Deputy Prime Minister, it is administered by the OGG and at the local level in Consultative Committees that operate only in a limited number of Municipalities. The freedom of association also guaranteed by the Constitution, has been addressed in general without defining disability, for which a special provision is needed to aiming define the status of DPOs.

- The cadres (personnel) of the institutions, responsible for guaranteeing the assurance and respect for accessibility and participation in public and political life, are distributed in different institutional sectors in the form of responsibilities for the implementation of the legal framework of which those institutions are the owners. A review of this framework in order to monitor and implement the rights originated from the Convention is necessary. The establishment of the mechanisms at the local and national level is also a mandatory requirement of the CRPD.
- The report will serve the institutions of Kosovo as a guide for fully addressing disability issues in the process of drafting the policies and adequate legislation considering that there are large legal gaps regarding these issues in general and especially in the targeted areas of this research. The harmonization of Kosovo legislation with the CRPD is a mandatory obligation for Kosovo, considering that this year, on the 1st of August, 2023, the Constitutional Court of Kosovo has approved the incorporation of the CRPD in Article 22 of the Kosovo Constitution, and with the approval in the Parliament of Kosovo, as part of this article, the Convention will be directly applicable in Kosovo and will prevail over the legal provisions in Kosovo.
- The report will also serve organizations of persons with disabilities and persons with disabilities themselves to advocate to public institutions at the national and local level, including legislative and administrative ones, to address the fundamental issues so that

this part of society can enjoy the rights guaranteed by the Constitution and the CRPD, equally with others.

- This report and other reports, in the future and within the requirements of the CRPD should be used to address issues concerning disability with the aim of harmonizing the legal infrastructure of Kosovo with the framework of the rights guaranteed by the Convention, to guarantee a compatibility which ensures the required standards for the rights of persons with disabilities.
- The report contains the summarized form of the Analysis of the Legal Framework of Kosovo, in reference to accessibility and participation, which includes the legislation of Kosovo that needs revision and completion, then the need for new legislation and other legal acts that address accessibility and participation also at the technical level.
- However, a separate report with specific recommendations will be prepared and presented as a follow-up to this report in the following months.

INTRODUCTION

The International Convention on the Rights of Persons with Disabilities (CRPD) and its Protocol, which have been in force since 2008, are the result of a concerted effort by persons with disabilities around the world to respect their rights equally with others. Through this Convention, the main message is transmitted, emphasizing that persons with disabilities have the right to the entire spectrum of basic human rights and freedoms without discrimination¹.

This Convention is important for people with disabilities worldwide for many reasons, but mainly for: firstly because so far the Convention has been ratified by 186 countries, signed by 164, while its protocol that enables people with disabilities either individually or collectively to present allegations of violations to the Committee, has been ratified by 104 states and signed by 94². Secondly, because the Convention defines the rights of persons with disabilities and the responsibility for their respect. Thirdly, the Convention emphasizes barriers and not people, and finally, the Convention challenges perceptions that disability is a medical problem by emphasizing a human rights-based approach³.

Kosovo, not being a member state of the UN, formally has no possibility to accede and ratify the Convention. After several years of advocacy and lobbying by the organization HANDIKOS in cooperation with other organizations of persons with disabilities, on the 1st of August 2023, the Constitutional Court of Kosovo, ruled as acceptable the request submitted by the Assembly of Kosovo¹ and approved the incorporation of the CRPD in Article 22 of the Kosovo Constitution, while with the approval in the Parliament of Kosovo⁴, as part of this article, the Convention will be directly applicable in Kosovo and will have precedence over the legal provisions in Kosovo.

Kosovo, during the years after the war and existence as a state, has drafted and strengthened legislation on disability. Legislation has mainly dealt with disabled people based on the type of disability⁵ and within the type some of the rights and benefits for persons with disabilities have been guaranteed. However, the organizations of persons with disabilities state that this legislation does not even come close to addressing the main requirements for persons with disabilities and, even in cases where they are guaranteed by law, the implementation of the provisions is applicable partially or not at all. In comparison with the required standards of the CRPD, it is considered that, less than a third (30.72%) of the estimated international obligations (standards) regarding disability are fully included in

¹ UN/ UN Human Rights Office of the High Commissioner *THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES/ Training Guide/ Professional Training Series/MODULE 2 – A SHORT INTRODUCTION TO THE CONVENTION*, https://www.ohchr.org/sites/default/files/Documents/Publications/CRPD_TrainingGuide_PTS19_EN_Accessible.pdf_f.4.

² <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd#Fulltext>

³ Same as in index 1.

⁴ *Constitutional Court of Kosovo / Announcement about the decision regarding the case KO 207/22, 1st of August 2023/* <https://gjk-ks.org/njoftim-per-vendim-ne-rastin-ko-207-22/>.

⁵ *Persons with disabilities include individuals with physical, mental or sensory impairment.*

the legislation of Kosovo⁶, while in terms of implementation the situation is even more difficult.

At the end of 2021, by the decision of the Government⁷, the year 2022 was designated as the Year of Persons with Disabilities.

Although, during the year 2022, a series of efforts to advance the position of persons with disabilities have been seen, the situation related to this community has remained below the level of minimum standards. The legal provisions related to different areas for addressing issues for persons with disabilities are partial, scattered, fragmented, immaterialized and many issues are missing which have remained unaddressed or have been addressed in a general manner but which have failed to be implemented in practice.

The analysis of the Legal Framework of Kosovo in relation to the CRPD and the recommendations of the UN Committee on the Rights of Persons with Disabilities is focused in two fundamental sectors, that of accessibility and public and political participation. It is an attempt to analyse how much the applicable legislation in Kosovo has been addressing these fundamental issues and to which extent it is in harmony with these documents with the aim that at the end of the analysis, the recommendations for intervention in the legislation are provided in order to create the minimum required standards and harmonization with the requirements of CRPD.

Considering that after the decision of the Constitutional Court, the CRPD will soon be part of the legislation in Kosovo, the report aims to present number of recommendations for interventions in the targeted areas, despite the fact that after the amendment of Article 22 of the Constitution, the entire legislation that addresses disability should be reviewed.

Due to limitations, the report is focused only to the analysis of the legislation applied in relation to the requested documents and does not assess the scope of the application of that legislation.

The World Health Organization¹ considers that about 15% of the world's population have some kind of disability. While from this number, about 2% are wheelchair users. In Kosovo, there are no accurate statistics regarding the total number of persons with disabilities. It is believed that the situation in Kosovo is approximately the same with this figure. Current data on disability is scattered.

⁶ *Persons with disabilities include individuals with physical, mental or sensory impairment.*

⁷ *Persons with disabilities include individuals with physical, mental or sensory impairment.*

On the 2011 census of population, a total of 93,288 persons with disabilities were registered ⁸.

<i>2011⁹</i>	<i>Number of registered PWD</i>	<i>%</i>
PAK	93 288	Total
F	49 910	53.6 %
M	43 379	46.4 %

Currently, according to the data from HANDIKOS, in the table below are presented numbers of persons with disabilities that benefit from social/pension schemes.

	Degree of Disability	Degree (1-3-5 or No limit)	Number of actual beneficiaries
Families with children with disabilities 1-18 years	Permanent Disability	Permanent until age 18 years	2,600
Persons with disabilities	Remaining ability to work	1,3 or 5 years	19,000
Blind	Degree of blindness	3 or 5 years	1,800
Paraplegics and Tetraplegics	Ability to move/function	3 or 5 years	3,000
Total			26,400

⁸ World Bank Group, Social Development, Country Profile Kosovo, Disability Inclusion, f.1, data's in this table are from the census 2011 census of population. There are no accurate data about the number of PWD.

⁹ World Bank Group, Social Development, Country Profile Kosovo, Disability Inclusion, f.1, data's in this table are from the census 2011 census of population. There are no accurate data about the number of PWD.

METHODOLOGY

The purpose of this report is to analyse the compatibility of the legislative framework of Kosovo with the UN Convention on the Rights of Persons with Disabilities. The analysis aims also to perform an overview of the compliance of the legislation with the recommendations of the UN Committee on the Rights of Persons with Disabilities.

Whereas, the purpose of the Methodology¹⁰ is to provide a uniformed content and the formal approach in writing the Draft Analysis of the Legislative Framework for the following areas:

- Accessibility Article 9 of the CRPD
- Participation in political and public life – Article 29 of the CRPD

Analysis of the compliance of the legislative framework of Kosovo with the United Nations Convention on the Rights of Persons with Disabilities, including a summary of the compliance of the legislation with the recommendations of the UN Committee on the Rights of Persons with Disabilities, based in this methodology, is aiming that the results of the analysis are comparable according to areas of research for all participating countries: Kosovo, North Macedonia and Albania; to create a unified basis for determining recommendations for improving legislation in the sectors defined at the national level; and assist in the implementation of project activities at the regional level.

This methodology has determined that for this analysis, several methods for gathering information should be used. Proposed methods include, but are not limited to:

- General questions that are necessary to perform the analysis/evaluation.
- Comparison of the legal framework with the CRPD by the legislative working groups established in the two areas for analysis.
- Draft analysis of the legal framework in Kosovo compared to the articles of the CRPD.
- Summary in tabular form of the Legal Framework Analysis.

The methodology has been defined for three participating countries in the project "Disability Alliances for the Development of Inclusive Reforms in the Region" (DADIRR), and will attract special attention to the compliance of the legislation with the recommendations of the UN Committee on the Rights of Persons with Disabilities¹¹.

1. The methods to fulfil requirement for the general questions necessary for this analysis include: the research of the local legislation, the research of the Convention and the different interpretations of the content of the articles of the Convention, the reports of the

¹⁰ Methodology is determined from the project supporter and the reports research expert.

¹¹ METHODOLOGY FOR DRAFTING THE ANALYSIS OF COMPLIANCE OF THE LEGISLATIVE FRAMEWORK WITH THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

relevant Committees within the Convention on the Rights of Persons with Disabilities, reports and analyses of various local and international organizations, interviews including formal and informal consultations with organizations of persons with disabilities.

2. The methods to fulfil the requirements for the tasks of the working groups regarding the drafting of the Draft Analysis of the Legal Framework of Kosovo, include: the establishment of two legislative working groups, one for accessibility and the second one for participation in public and political life, consisted from 5-6 members¹², representatives of DPOs and institutions. In this component, a total of five (5) meetings were held, three (3) with the legislative working group for accessibility and two (2) with the legislative working group for participation, during which, the legislation of Kosovo on disability and the requirements of CRPD were addressed. At the end of the meetings, the members of the working groups, few of them, sent a copy of the template prepared by the expert regarding the requirements for each area.

3. The draft analysis of the legislation was drafted by the expert of the report also on the bases of the contributions of the working groups including the meeting via ZOOM platform, where persons with disabilities and representatives of civil society provided their contributions to the completion of the draft legal framework and recommendations for intervention and the author of the analysis.

4. The summary form of the report is based on the Draft Analysis of the Legal Framework for the legislation targeting persons with disabilities, the contributions of the participants in legislative working groups and the participants in the meeting via ZOOM platform, with the substantial intervention of the expert and PWDs, with a focus on accessibility and participation.

Conclusions and recommendations are based on findings and interventions proposed by persons with disabilities.

¹² HANDIKOS, KAD, KAB, CEC, Ombudsman.

I. LEGAL ACTS DEALING WITH THE ISSUES OF PERSONS WITH DISABILITIES

The provisions by which the issues of persons with disabilities in Kosovo are regulated and treated are found in general and special legal acts, applicable in Kosovo, including the Constitution of the Republic of Kosovo. General acts in Kosovo are found in the form of laws, regulations, administrative instructions, government decisions, which are mandatory for implementation, both at the national and local level. Whereas, the issues concerning persons with disabilities are also included in policy documents, such as strategies and action plans, these documents are showing the institutional efforts to address the mission, vision, objectives for the treatment of a certain component, which in this case are disability issues. The legal provisions for persons with disabilities may also be in other legal acts which are not listed below, but for the purpose of this analysis we will refer to the below listed legal acts aiming to analyse the compatibility in the areas of accessibility and participation.

1) CONSTITUTION OF THE REPUBLIC OF KOSOVO¹³

The Constitution is the highest political-legal act of the Republic of Kosovo. As the highest act in the hierarchy of legal acts, the provision of Article 16 of this Constitution has determined that all laws and other legal acts must be in accordance with the Constitution. The Constitution of the Republic of Kosovo, on the other hand, has recognized that the *International agreements ratified by the Republic of Kosovo become part of the internal legal system after they are published in the Official Gazette of the Republic of Kosovo*. Furthermore, paragraph 2, of Article 19, determines that the *Ratified international agreements and legally binding norms of international law have precedence over the laws of the Republic of Kosovo*. This constitutional provision has placed the ratified international instruments and the legally binding norms of international law in a higher hierarchy than the laws of Kosovo.

The Constitution of Kosovo protects and guarantees a wide spectrum of human rights included in Chapter II [Fundamental Rights and Freedoms]¹⁴ determining in the general principles also that *Human Rights and Fundamental Freedoms are indivisible, inalienable and inviolable and are the basis of the legal order of the Republic of Kosovo*. Among other things, the constitution ensures the unlimited equality of all people before the law without discrimination, Article 24 [Equality before the Law] defining as basis also disability, including alternative measures for unequal groups¹⁵.

The Constitution has not explicitly addressed the right for accessibility and participation in public life for persons with disabilities. However, in this reference, in chapter II on the Human Rights, including the provisions related to the principles of non-discrimination, it has built

¹³ Constitution of the Republic of Kosovo, approved on 15th June 2008, and 5 amendments, <https://qzk.rks-gov.net/ActDetail.aspx?ActID=3702>.

¹⁴ Chapter II, of the Constitution, is the most voluminous chapter of the Constitution, with a total of 42 articles, "It is dedicated to the freedoms, rights and obligations of man and citizen, the protection of human dignity, equality before the law and the direct implementation of international agreements and instruments".

¹⁵ Constitution of Republic of Kosovo, article 24.

the basic principles related to the most important areas, guaranteeing equality for all citizens of Kosovo. While regarding the participation in political life, the rights to elect and be elected and to participate are explicitly guaranteed for each individual, Article 45 [Electoral and Participation Rights]. Explicitly as an individual right, it is guaranteed the freedom of each person to establish an organization without the need to obtain a permit, to be or not to be a member of an organization, as well as to participate in the activities of an organization, Article 44 [Freedom of Association].

Considering that the Republic of Kosovo is not a member of the UN and as such cannot accede to international instruments for the protection of human rights, the Constitution has affirmed constitutional solutions, so that a number of international instruments are included in Article 22, of the Constitution, [Direct Implementation of International Agreements and Instruments]¹⁶, which are directly implemented in the Republic of Kosovo. Moreover, the Constitution has given international instruments priority, in case of conflict, over the provisions of laws and other acts of public institutions. In this reference, it is very important the fact that on the 1st of August, 2023, the Constitutional Court of the Republic of Kosovo has ruled that the United Nations Convention on the Rights of Persons with Disabilities should be part of Article 22 of the Constitution. The amendment of the Constitution is expected to be done in the coming days, after it is voted by the Assembly of the Republic of Kosovo¹⁷.

Also, the Constitution has raised the standard of interpretation of the human rights to the level of judicial decisions of the European Court of Human Rights, therefore, Article 53 [Interpretation of Human Rights Provisions], *Human rights and fundamental freedoms guaranteed by this Constitution, are interpreted in harmony with the judicial decisions of the European Court of Human Rights*, by providing legal protection, Article 54 [Judicial Protection of Rights].

¹⁶ *Human rights and freedoms guaranteed by the following international agreements and instruments are guaranteed by this Constitution, are directly applied in the Republic of Kosovo and have priority, in case of conflict, over the provisions of laws and other acts of public institutions: Universal Declaration of Human Rights; (2) the European Convention for the Protection of Fundamental Human Rights and Freedoms and its Protocols; (3) International Convention on Civil and Political Rights and its Protocols; (4) Framework Convention of the Council of Europe for the Protection of National Minorities; (5) Convention on the Elimination of All Forms of Racial Discrimination; (6) Convention on the Elimination of All Forms of Discrimination against Women; (7) Convention on the Rights of the Child; (8) Convention against Torture and Other Cruel, Inhuman and Degrading Treatment. (9) The Convention of the Council of Europe on preventing and combating violence against women and domestic violence)* With a constitutional amendment, it has also approved its inclusion in the Constitution in paragraph 9/ OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO / No. 4 / SEPTEMBER 30, 2020, PRISTINA/ AMENDMENT OF THE CONSTITUTION OF THE REPUBLIC OF KOSOVO No. 07-V-058 September 25, 2020*

¹⁷ *The Constitutional Court of the Republic of Kosovo has decided on the request in case KO 207/22, submitted by the Assembly of the Republic of Kosovo, regarding the assessment of the compatibility with the Constitution of the Republic of Kosovo of the proposed constitutional amendment. The request was submitted by the President of the Assembly of Kosovo and was submitted to the Court on December 21, 2022, based on paragraph 9 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, according to which the President of the Assembly of Kosovo must refer the amendments constitutional amendments proposed for the evaluation of the Constitutional Court before approval in the Assembly, in order to ascertain whether the proposed constitutional amendment reduces the rights and freedoms guaranteed by Chapter II [Fundamental Rights and Freedoms] of the Constitution.*

<https://qjk-ks.org/njoftim-per-vendim-ne-rastin-ko-207-22/>

From the observations above, we find that the Constitution of Kosovo includes a comprehensive spectrum of human rights. In addition, the fact that the international instruments enumerated in Article 22 have been given precedence over the laws of Kosovo, it proves that the spirit of the constitution is oriented towards respect for human rights and international standards related to the human rights.

2) LAW No. 04/L – 092 FOR BLIND PERSONS¹⁸

The Law for Blind Persons has regulated the position, rights and obligations for the blind persons as members of the communities of persons with disabilities.

Article 4 of this law provides protection for blind persons in the form of protection from all kinds of exploitation, discrimination, abuse, insult, ridicule and enjoy the rights and freedoms equally with others based on international standards for human rights .

In looking at the field of accessibility, the law has only slightly or partially regulated the accessibility for blind people. However, it includes legal provisions that partially address access to information, Article 11, [Access to information]; travel for blind people and their companions, Article 13 [Travel] and has defined the obligation for the institutions responsible for ensuring necessary and possible adaptations for blind persons, Article 15 [Benefits and other rights]. For the implementation of this law, these two other legal acts have also been approved.

3) LAW No. 05/L-067 ON THE STATUS AND THE RIGHTS OF PERSONS WITH PARAPLEGIA AND TETRAPLEGA¹⁹

The Law on the Status and Rights of Persons with Paraplegia and Tetraplegia has regulated the position, rights and obligations of persons with paraplegia and tetraplegia, as a community of persons with disabilities.

In the initial provisions, the protection of the dignity and respect for the physical and mental integrity of persons with disabilities (paraplegia and tetraplegia) is guaranteed, on an equal basis with other persons, Article 5 [*Protection of the integrity of the person*] and protection from all forms of discrimination, Article 4 [Protection], by defining the protection *based on the Constitution and applicable laws, the international standards for human rights recognized by the International Conventions on Human Rights and with special emphasis on the standards and principles defined with the International Convention on the Rights of Persons with Disabilities.*

Although some of the provisions refer to access ibility/types of access, there is no exclusive provision that fully materializes access or accessibility in the sense of the necessity for this community. For the implementation of this law, two other legal acts have been approved.

¹⁸ Law No. 04/L-092 for Blind Persons, entered into force on 18 July 2012, OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO/Nr. 20 / 18 JULY 2012, PRISHTINË, <https://qzk.rks-gov.net/ActDetail.aspx?ActID=2837> .

¹⁹ Law No. 05/L-067 for the status and the rights of Persons with Paraplegia and Tetraplegia, entered into force on 16 June 2016, OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO/ Nr. 19 / 16 JUNE 2016, PRISHTINË, <https://qzk.rks-gov.net/ActDetail.aspx?ActID=12554>

4) LAW No. 03/L-019 ON VOCATIONAL ABILITY, REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES²⁰

This law aims to provide legal and institutional support for persons with disabilities regarding the vocational ability, professional rehabilitation, encouragement and professional training for the suitable employment, equally with others.

It does not specifically address the areas defined in this analysis, but considering that the legal provisions that address the specific areas of this analysis are distributed over several legal acts, we have listed this law as well, because it is one of the few laws, if not the only one, which has defined disability, persons with disabilities and categories of persons with disabilities. And, considering that this law regulates and defines the rights, conditions, ways of training, professional retraining and employment of persons with disabilities, in order to integrate them into the open labour market, it has addressed the concept of suitable adaptation of the environment in reference to the area of accessibility, Article 3 [Suitability of the environment] and [Auxiliary tools], which interact with the accessibility area. Also, the law includes legal provisions related to discrimination.

This law was amended by LAW NO. 05/L -078 FOR AMENDING AND SUPPLEMENTING LAW NO. 03/L-019 ON THE VOCATIONAL TRAINING, REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES, through which some of the expressions of the basic law were changed, especially the part on the definition of disability, persons with disabilities and categories of persons with disabilities. In the framework of this law, eight (8) regulations and administrative instructions have been approved, which were published in the Official Gazette of the Republic of Kosovo ²¹.

5) LAW NO. 04/L-131 ON PENSION SCHEMES FINANCED BY THE STATE ²²

Through this law are regulated pension schemes that are financed by the state, including pensions for persons with disabilities, determining the *Right to a disability pension*, in Article 4.

[Purpose] Article 1 of this law is to define the types of pensions, including disability pensions, as pensions of the Pillar 1 financed by the state. Whereas, in Article 3 [Definitions], it is defined as **Pension for the permanent disability** - *the regular monthly pension paid to citizens of the Republic of Kosovo, based on the decision of the relevant body of the Ministry, who meet the criteria set forth by this law*. The conditions and criteria are defined in Article 9 of this law. ADMINISTRATIVE INSTRUCTION (M LSW) NO. 06/2015 ON APPLICATION AND ASSESSMENT PROCEDURES FOR PERMANENT DISABILITY PENSION, regulates and

²⁰ Law No. 03/L-19 for Vocational Training, Professional Rehabilitation and Employment of persons with Disabilities, entered into force on 25 January 2009, OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO / PRISHTINË: YEAR IV / Nr. 47 / 25 JANUARY 2009, <https://qzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2620>

²¹ <https://qzk.rks-gov.net/ActDetail.aspx?ActID=2620>

²² Law No. 04/L-131 for the Pension schemes financed from the state, entered to force on 5 June 2014, supplemented and adopted in 2023, OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO / Nr.35 / 05 JUNE 2014, <https://qzk.rks-gov.net/ActDetail.aspx?ActID=2486>

defines the administrative procedures through which disabled persons are granted the right to pension.

6) LAW NO. 03/L-073 ON GENERAL ELECTIONS IN THE REPUBLIC OF KOSOVO²³

The Law on General Elections was drafted with the purpose of defining the rules for the organization of free, fair and democratic elections for the Assembly of the Republic of Kosovo.

The law in the provision of the Article 4 on [Fundamental Principles] has guaranteed [Freedom and Secrecy of Vote], Article 6 [Right to Vote], Article 89 [Right to Vote and Secrecy of Vote], Article 59, to ensure that the polling places should be in an accessible places Article 83 [Locations of Polling Places and Polling Centers].

The law on general elections in Kosovo has paid attention to persons with disabilities because a number of legal provisions are exclusively dedicated to this community. Also, a special chapter expressly regulates the voting of persons with disabilities, Article 99 [General Provisions]²⁴, determining that the CEC determines the rules for voting for persons with special needs.

Whereas, access to information and transmission of information for persons with disabilities is addressed in the provisions of Article 107, [Information of voters and media], and Article 108 [Transmission of information for voters], including informational material for people with impaired hearing in the language adequate for the needs of the language groups provided by the broadcaster.

7) LAW NO. 03/L-072 ON THE LOCAL ELECTIONS IN THE REPUBLIC OF KOSOVO²⁵

The law on local elections was drafted with the aim of administering free, fair and democratic elections for Municipal Assemblies and Mayors of Municipalities and with the aim of strengthening local democratic governance.

In principle, most of the legal provisions of the law on general elections are applicable and similar in this law as well. The provisions of the Law on general elections in the Republic of Kosovo are equally valid for local elections.

8) LAW NO. 06/L-043 ON FREEDOM OF ASSOCIATION IN NON-GOVERNMENTAL ORGANIZATIONS²⁶

²³ Law No. 08/L-228 for General Elections in Republic of Kosovo, OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO / Nr. 14 / 3 JULY 2023, PRISHTINË, with this Law the previous laws are repealed for general elections in Kosovo, <https://qzk.rks-gov.net/ActDetail.aspx?ActID=2544>.

²⁴ Chapter XV/ Voting of the persons with special needs.

²⁵ Law No. 03/L-072 for the Local Elections in Republic of Kosovo, entered into force on 15 June 2008, OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO / PRISHTINË: YEAR III / Nr. 32 / 15 JUNE 2008, <https://qzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2549>.

²⁶ Law No. 06/L-43 for the Freedom of Association in Non-governmental organizations, entered into force on 24 April 2019, OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO/Nr.11/ 24 APRIL 2019, PRISHTINË, <https://qzk.rks-gov.net/ActDetail.aspx?ActID=19055>

Freedom of Association is a right that originates from the Constitution of Kosovo. With the special law it has been regulated the right to freedom of association in non-governmental organizations, including freedom of expression and opinion, freedom of assembly, freedom to seek, accept and use resources and some other principles in the function of association. The law does not exclusively address the freedom of association for persons with disabilities, but provides guarantees for the right of each person to establish an organization without the need to request for a permit, to be or not to be a member of an organization, as well as to participate in an organization's activities.

9) LAW NO. 05/L -021 ON THE PROTECTION FROM DISCRIMINATION²⁷

Although most of the laws listed above have in their provisions content related to and against discrimination, the Law on Protection from Discrimination No. 05/L -021, has exhausted extraordinarily well the issues that fall into the domain of discrimination. In a special way and in accordance with the constitutional provisions, this law recognizes disability as a basis for discrimination Article 1 [Purpose] The purpose of this law is to define a general framework for preventing and combating discrimination based on nationality or affiliation with any community, social or national origin, race, ethnicity, colour, birth, origin, sex, gender, gender identity, sexual orientation, language, nationality, religious belief and faith, political affiliation, political opinion or other opinions, social status or personal, age, family or marital status, pregnancy, maternity, financial status, health status, disability, genetic inheritance or any other basis, in order to apply the principle of equal treatment, thus ensuring legal protection on each basis of discrimination.

This law has defined the concept of discrimination and recognizes about ten types of unequal treatment, Article 4, the violation of which according to the bases mentioned in Article 1, is considered discrimination.

The law has also addressed many other segments, including the obligations of institutions, protection by the judicial procedures in courts and guarantees that provide the realization of the wide spectrum of the rights, always referring to the grounds of discrimination from Article 1.

In accordance with Article 11 (2) of the Law, [Institutional Mechanisms for Protection from Discrimination in Ministries and Municipalities], the government regulation has been drafted:

10) GRK REGULATION - No. 03/2017 ON INSTITUTIONAL MECHANISMS FOR PROTECTION FROM DISCRIMINATION IN GOVERNMENT AND MUNICIPALITIES²⁸, *the purpose of which is to define the duties and responsibilities of the relevant units or officials for protection against discrimination in ministries and municipalities, as well as the way of their coordination, reporting and cooperation with the Office for Good Governance as well as with other institutional mechanisms for protection against discrimination.*

²⁷ Law No. 05/L-021 for protection from Discrimination, entered into force on 26 June 2015, OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO / Nr. 16 / 26 June 2015, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10924>.

²⁸ REGULATION GRK - No. 03/2017 FOR INSTITUTIONAL MECHANISMS FOR PROTECTION FROM DISCRIMINATION IN GOVERNMENT AND MUNICIPALITIES, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10924>.

11) ADMINISTRATIVE INSTRUCTION -No. 33/2007 ON CONSTRUCTION BUILDINGS TECHNICAL TERMS OF ACCESSIBILITY FOR PERSONS WITH DISABILITIES²⁹

The administrative instruction refers to the legal basis of the Law for Construction. This Instruction regulates the technical terms and conditions for ensuring unrestricted access, movement, acting and work of persons with disabilities and the modernization of access to public construction buildings dedicated to work, residential and residential-business purposes, as well as the conditions and method of the adaptability of the access to the construction building dedicated to housing and business.

In the definitions of this instruction (Article 4), the subject is the person with disabilities and the person with difficulty in movement, while Article 5 has defined the objects to which the obligations from this act refers: public and administrative construction objects; as well as residential and business construction facilities.

12) GRK REGULATION No. 15/2014 ON THE PROVISION OF SIGN LANGUAGE SERVICES IN THE REPUBLIC OF KOSOVO³⁰

The Government of the Republic of Kosovo, in support of Article 93 (4) of the Constitution of the Republic of Kosovo, has approved the National Program for the provision of sign language services for Deaf Persons.

The regulation was drafted aiming to determine the rules and procedures for the provision of services in Sign Language in the Republic of Kosovo, as well as access to interpretation services for the deaf people through the Sign Language Interpreters. Its scope extends to all public institutions of the Republic of Kosovo, at the central and local level, determining that the institutions are obliged to provide services to people from the deaf community according to their needs and requirements in sign language (Article 2).

13) NATIONAL STRATEGY FOR THE RIGHTS OF PERSONS WITH DISABILITIES 2013 -2023³¹

The goal of the National Strategy for the Rights of Persons with Disabilities 2013 -2023 was to provide the sustainable framework for the actions aiming to address challenges and barriers and to promote an inclusive society.

The strategy was aiming to be an important mechanism to ensure that the principles embodied in the United Nations Convention on the Rights of Persons with Disabilities are incorporated into policies and programs that affect the improvement of the quality of living conditions of Persons with Disabilities in the Republic of Kosovo.

Five (5) strategic objectives were defined:

- 1. Improving the provision of health services for Persons with Disabilities;*
- 2. Functional and genuine system for welfare and social security as well as the provision of equal opportunities for the employment of Persons with Disabilities;*

²⁹ ADMINISTRATIVE INSTRUCTION -Nr. 33/2007 ON CONSTRUCTION BUILDINGS TECHNICAL TERMS OF ACCESSIBILITY FOR PERSONS WITH DISABILITIES. (Repealed with the decision of GRK, Nr. 02/50 of the date 23.12.2021) - (Remains in force with the decision of the GRK, Nr. 05/56 of the date 26.01.2022) <https://qzk.rks-gov.net/ActDetail.aspx?ActID=7480>.

³⁰ REGULATION GRK Nr. 15/2014 FOR PROVISION OF SERVICES IN SIGN LANGUAGE IN REPUBLIC OF KOSOVO, <https://qzk.rks-gov.net/ActDetail.aspx?ActID=10363>.

³¹ http://handi-kos.org/wp-content/uploads/2004/03/strategjia_nacionale_finale_per_shtyp_3_gjuhet_bardh_e_zi_88013-2.pdf.

- 3. The creation of the conditions for inclusiveness in education and for professional support of persons with disabilities;*
 - 4. Equal access to legal protection as well as the provision of services at the local level for the fulfilment of the rights of Persons with Disabilities;*
 - 5. Providing equal conditions in access, information, communication, participation, as well as in the creation or establishment of a unified data system for Persons with Disabilities.*
- In order to implement the strategic objectives in practice, the drafting of the Action Plans³² was foreseen and the responsibility for the drafting of the Action Plans was attributed to all institutions at the central and local level that had participated in the drafting of the Strategy in cooperation with civil society.*

Considering that we are in the last year of finalizing this strategy and the new ten (10) years strategy is in the process of drafting by working groups, in this report we will not stop at analysing the objectives of this strategy.

³² Plan of Action for the rights of persons with disabilities in the Republic of Kosovo 2021-2023, <https://konsultimet.rks-gov.net/viewConsult.php?ConsultationID=41058>.

II. INTERNATIONAL CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES & RECOMMENDATIONS OF THE COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES ACCESSIBILITY AND PARTICIPATION

The International Convention on the Rights of Persons with Disabilities and its Protocol were adopted on 13th of December 2006 and entered into force on 3rd of May 2008, as a comprehensive effort by persons with disabilities to respect their rights on equal bases with others.

The purpose of the Convention, as set out in Article 1, is to promote, protect and ensure the full and equal enjoyment of all fundamental human rights and freedoms for all persons with disabilities and to promote respect for their dignity.

The Convention has not given a precise definition for persons with disabilities, due to the fact that it considers that the notion of "disabilities" is an evolving concept and by no means a rigid concept because it mainly depends on the prevailing environment and varies from one society to another. Therefore, even as an evolving concept, it should mainly be determined in relation to environmental and attitudinal barriers because these are the obstacles that disabled people usually encounter for full and effective participation in society on an equal basis with others³³.

However, in Article 1, the Convention has defined who persons with disabilities are by determining that Persons with disabilities include individuals with long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may prevent their full and effective participation in society just like the rest of society.

The Convention main emphasize is on the categorization of barriers and not of human beings, therefore it is important to briefly present the different approaches to disability, which are categorized as:

Charitable approach - which is characterized by the perspective that people with disabilities are considered to be incapable of taking care of themselves due to their impairment. This approach does not consider any environmental conditions at all. This perspective leads to the conclusion that people with disabilities are objects of pity and depend on the good will of society.

Medical approach - is characterized by a focus on the person's injury. In short, this approach supports the perspective that disabled people are sick and should be treated and, same as the charity approach, does not consider any environmental factors.

Social approach - is completely different from the previous two approaches and considers disability as part of the individual's interaction with an environment that does not adopt

³³ UN/ UN Human Rights Office of the High Commissioner THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES/ Training Guide/ Professional Training Series/MODULE 2 – A SHORT INTRODUCTION TO THE CONVENTION, https://www.ohchr.org/sites/default/files/Documents/Publications/CRPD_TrainingGuide_PTS19_EN_Accessible.pdf.

their differences. This approach considers that it is precisely the lack of appropriate accommodation that hinders the individual's participation in society and that inequality is not due to impairment, but to society's inability to eliminate challenging barriers for persons with disabilities. This model is much more advanced than the first two because it puts the person at the center, not their injury.

Human rights approach – originates from the social approach and it further advances the perspective by recognizing persons with disabilities as subjects of the rights and the state, meaning that others are responsible to respect these persons. This approach treats barriers in society as discriminatory and provides opportunities for people with disabilities to complain when faced with such barriers. In this context, the Convention places the main emphasis on the social and human rights approach with the aim that persons with disabilities are treated the same as other persons in society and enjoy equal rights.

The Convention has 50 articles and one protocol. From article 1 to article 4, the purpose, definitions, general principles, general obligations are regulated. From Article 5 to Article 30, specific rights for persons with disabilities and related cross – sectorial issues are included. Articles 31 and 32 deal with the issue of international statistics and cooperation, while other articles regulate implementation and monitoring issues, Committees, Conference of States Parties and final provisions.

The Optional Protocol of the Convention recognizes the right of individuals and groups of individuals to present before the Committee claims for violations of any of the provisions of the Convention. The Optional Protocol also allows the Committee, with the consent of countries, to undertake investigations in countries where there has been credible evidence of serious or systematic violations of the rights of persons with disabilities³⁴.

For the purpose of this analysis, we will focus on the guaranteed rights of the Convention, according to Article 9, for Accessibility and Article 29, regarding the participation in public and political life, which will be compared with the national legislation in Kosovo.

Although CRPD is currently not an applicable instrument in Kosovo, but it is expected to be soon, considering that Kosovo aspires the EU integration and in this process it is required to adopt legislation conforming to the requirements of the Acquis Communautaire, the time it is for legislators to take into account requirements for the adaptation of the legal framework for persons with disabilities because these are the standards required for compliance in this area.

³⁴ UN/ UN Human Rights Office of the High Commissioner THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES/ Training Guide/ Professional Training Series/MODULE 2 – A SHORT INTRODUCTION TO THE CONVENTION, https://www.ohchr.org/sites/default/files/Documents/Publications/CRPD_TrainingGuide_PTS19_EN_Accessible.pdf, f.30.

1. ACCESS/ACCESSIBILITY

Access or accessibility, as we refer to the overall components for the full participation of persons with disabilities in all aspects of life to ensure equality, is a fundamental condition of the Convention.

Article 9 Accessibility

1. In order that all persons with disabilities live independently and fully participate in all aspects of life, State s parties shall take appropriate measures to ensure that persons with disabilities, same as all other citizens have access to physical facilities, to transportation, information and communication, including information and communication technologies and systems, as well as to other facilities or services available or offered to the public, in urban and rural areas. These measures, which will include the identification and elimination of obstacles and barriers to access will be implemented, among others:

- (a) In buildings, roads, transportation and other facilities in indoor or outdoor environments, including schools, housing, health centers or workplaces;
- (b) Information, communication and other services, including electronic and emergency services.

2. In addition, States Parties must take appropriate measures to:

- (a) Develop, announce and monitor the implementation of minimum guidelines and standards regarding access to facilities and services open or provided to the public;
- (b) Ensure that private entities that provide facilities and services which are open or provided to the public, take into account all aspects of access ibility for persons with disabilities;
- (c) Provide training for stakeholders related to problems related to access for persons with disabilities;
- (d) Ensure that buildings and other public facilities contain signs in Braille and in easily readable and understandable forms;
- (e) Provide direct and intermediate forms of assistance, including guides, readers and professional sign language interpreters, to enable access to buildings and other public facilities;
- (f) Encourage other appropriate forms of assistance and support for persons with disabilities aiming to ensure that they have access to information;
- (g) Promote the access of persons with disabilities to the new information's and new communication technology systems, including the Internet;
- (h) To promote the design, development, production and dissemination of accessible information and communication technologies and systems at an early stage, so that these technologies and systems are made accessible at a minimum cost;

Article 9 of the Convention deals with accessibility for persons with disabilities in all its complexity. Paragraph 1 of this article states that *In order that all persons with disabilities may live independently and fully participate in all aspects of life, State s parties shall take appropriate measures to ensure that persons with disabilities, like everyone else, to have access to physical facilities, to transportation, information and communication, including*

information and communication technologies and systems, as well as to other facilities or services available or offered to the public, both in urban and rural areas.

Paragraph 1 of Article 9 defines precisely two important components for persons with disabilities: independent living and full participation in all aspects of life. For this purpose, the provision required from the states parties to firstly take measures to identify and eliminate obstacles and barriers related to accessibility and has requested that these actions be implemented, among others, a) In buildings, roads, transport and other facilities in indoor or outdoor environments, including schools, housing, health centers or workplaces; (b) Information, communication and other services, including electronic and emergency services. By which we imply that in the points a) and b) of paragraph 1, the minimum standards related to access ibility have been adopted.

Mandated by the Convention, the Committee on the Rights of Person s with Disabilities³⁵, in its 11th session, dated 31st of March- 11th April, 2014, has determined that **Accessibility is a prerequisite for persons with disabilities to live independently and to fully and equally participate in society.** Without access to the physical environment, transport, information and communication, including information and communication technologies and systems, and to other facilities and services open or provided to the public, persons with disabilities would not have equal opportunities to participation in their respective societies.

The Committee has found that it is important to address access ibility in all its complexity, including the physical environment, transport, information and communication, and services. Article 9, paragraph 1, requires States Parties to identify and eliminate bar riers and obstacles to access, as defined in points a) and b). Other indoor and outdoor facilities mentioned above should include law enforcement agencies, courts, prisons, social institutions, areas for social interaction and recreation, cultural, religio us, political and sports activities, and commercial facilities. Other services should include postal, banking, telecommunication and information services³⁶.

Also, the Committee has found that these measures do not limit themselves to public institutions in the sense of ownership of public institutions, but has stated that *as long as goods, products and services are open or offered to the public, they must be accessible for all, regardless of whether they are owned and/or provided by a public authority or a p rivate enterprise*³⁷.

In reference to the requirements from paragraph 1 of this art icle, paragraph 2 requires the States parties to take **appropriate** additional measures as defined in paragraph 2 from point *a* to point *h*.

³⁵ UN/CRDP/C/GC/2/ Committee on the Rights of Persons with Disabilities Eleventh session/ General comment No. 2 (2014)/ 22 May 2014, f.1, file:///C:/Users/FastTech/Downloads/CRPD_C_GC_2-EN.pdf

³⁶ Same as in index 35, point 17, p. 6.

³⁷ Same as in index 35, point 13, p. 4.

Therefore, the requirements of Article 9 in par. 1 and 2 are quite extensive in terms of state obligations and the actions that states will have to undertake to ensure full implementation of the standards required in this article.

The obligations of the States parties in the context of the Convention are, but are not limited to: conducting proper analyses to identify the barriers that exist; remove barriers gradually; adopt, announce and monitor national accessibility standards; adopting an appropriate legal framework if it does not exist; undertaking a comprehensive review of access laws in order to identify, monitor and address gaps in legislation and implementation; include ICT in their definition of accessibility; disability rights laws relating to non-discriminatory access to areas such as procurement, employment and education and to the goods and central services of the modern society provided through ICT and other forms equally to other people.³⁸

Also, the committee has concluded that it is necessary to establish minimum standards for access to various services provided by public and private enterprises.

The Committee has concluded that the obligations of the States Parties to provide access to the physical environment, transport, information and communication and services open to the public for persons with disabilities should be seen from the perspective of equality and non-discrimination. Denying the access to the physical environment, transportation, information and communication and services open to the public constitutes an act of discrimination based on disability that is prohibited by Article 5 of the Convention³⁹. Ensuring accessibility must be seen in the context of the implementation of the general obligation derived from Article 4 of the Convention.

The Committee's requirements for accessibility standards are, but not limited to, general and specific disability laws in the areas of the physical environment, building and planning laws; in the field of transport in the laws for public air, rail, road and water transport; in the field of information and communication and in services open to the public. The Convention, the committee and the accessibility standards clearly state that *denying the access must be clearly defined as a prohibited act of discrimination*.

Persons with disabilities who are denied access to the physical environment, transportation, information and communication, or services open to the public must have effective legal remedies available to them. When setting accessibility standards, States parties should take into account the diversity of persons with disabilities and ensure that access is provided to persons of all genders and of all ages and types of disability. Part of the disability diversity in providing access includes recognizing that some disabled people need human or animal assistance to enjoy full access (such as personal assistance, sign language interpretation, touch or guide dogs). It must be determined, for example, that prohibiting

³⁸ Same as in index 35, point 28, p.8

³⁹ Same as in index 35, point 34, p.10

guide dogs from entering a particular building or open space would constitute a prohibited act of discrimination on the basis of disability⁴⁰.

Seen from the requirements of Article 9 and the interpretations of the Committee, the concept of accessibility is quite broad and includes all aspects of life; requires synchronized intervention in legislation and other acts that regulate the lives of all persons living in the specific State, including persons with disabilities themselves.

2. PARTICIPATION IN THE PUBLIC AND POLITICAL LIFE

Article 29 of the Convention, ensures the participation of persons with disabilities in public and political life therefore the States parties are obliged to ensure the opportunity for persons with disabilities to enjoy the rights from this article in the same way as the rest of the population.

Article 29 Participation in the public and political life

States parties must ensure that persons with disabilities have the same political rights and the opportunity to enjoy them as the rest of the population and must undertake:

(a) Guarantee to persons with disabilities full and effective participation in political and public life like everyone else, directly or through elected representatives, including the right and opportunity of persons with disabilities to vote and to be elected, among other things, by:

- (i) Ensuring that the voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
- (ii) Protecting the right of persons with disabilities to vote by secret ballot in public elections and referendums, without threat, to run in elections, to exercise public functions and to perform all public functions in all levels of government, facilitating the use of assistive and new technologies where appropriate;
- (iii) Guaranteeing the expression of the free will of persons with disabilities as voters and for this purpose, when necessary, upon their request, allow assistance in voting by a person chosen by them.

(b) Ensuring an environment in which persons with disabilities can participate effectively and fully in the conduct of public affairs, without discrimination and on an equal basis with others, and to encourage their participation in public affairs, by including:

- (i) Participation in non-governmental organizations and associations dealing with public and political life in the country and in the activities and administration of political parties;
- (ii) Establishing or participation in organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels

⁴⁰ Same as in index 35, point 29. p. 9

The key issues in the requirements of Article 29 are: full and effective participation in political and public life just like everyone else, directly or through elected representatives, the right and not only the right to vote but also the opportunity to be elected. Point a), refers more to the right to participate to elect and to be elected and is mainly seen in the context of the right to vote. Thus, it requires the undertaking of a series of legislative and operative actions to ensure that the rights arising from Article 29 are guaranteed and implemented.

Point (b), on the other hand, it is even broader in the formal sense of the institutional scope because it has more to do with effective participation in the management of the public issues that are involved, at least: participation in non-governmental organizations and associations that deal with public and political life in the country and in the activities and administration of political parties and the establishment or participation in organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

The Committee for the Rights of Persons with Disabilities in the general comments with No. 7, of the year 2018, while it has provided comments and recommendations regarding the participation of persons with disabilities, including children with disabilities, through their representative organizations in the implementation and monitoring of the Convention, has also addressed participation in public and political life of persons with disabilities.

People with disabilities still face significant attitudinal, physical, legal, economic, social and communicative barriers to participate in public life⁴¹.

The rights of persons with disabilities to participate in political and public life (Article 29) is of extreme importance in ensuring equal opportunities for persons with disabilities to participate and be included fully and effectively in society. The right to vote and to be elected is an essential component of the right to participate, as elected representatives decide the political agenda and are key to ensuring the implementation and monitoring of the Convention, protecting their rights and interests⁴².

It is required from the States parties to adopt regulations in close consultation with organizations of persons with disabilities, to allow persons with disabilities who require assistance to be able to vote by themselves. This may require the installation of aids for persons with disabilities in voting places (on Election Day and in advance voting) in national and local elections and in national referenda⁴³.

Full and effective participation means the inclusion of persons with disabilities in various decision-making bodies, such as at local, regional, national and international levels, and in

⁴¹ UN/CRPD/C/GC/7/Distr.: General 9 November 2018/Committee on the Rights of Persons with Disabilities/General comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention, 5, f. 2, file:///C:/Users/FastTech/Downloads/CRPD_C_GC_7-EN.pdf

⁴² Same as in index 41, point 88, p.16.

⁴³ Same as in index 41, point 89, p.16 and 17.

national human rights institutions, ad hoc committees, regional councils or municipal organizations. States parties should recognize in their legislation and practice that all persons with disabilities may be appointed or elected to any representative body: for example, ensuring the appointment of persons with disabilities to municipal disability councils, or as specific bearers for the rights of the disabled in the composition of the national human rights institutions⁴⁴.

Paragraph b, of the Article 29, includes guaranteeing the participation of persons with disabilities in non-governmental organizations and associations that deal with the public and political life in the country and in the activities and administration of political parties, as well as the establishment or participation in organizations of the persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

The Committee has concluded that the inclusion and participation of persons with disabilities through "representative organizations", or organizations of persons with disabilities, is natural. In order to adequately implement the requirements of the article, it is important for States parties and relevant stakeholders to define the scope of organizations of persons with disabilities and to recognize the different types that often exist.

*The Committee considers that organizations of persons with disabilities must be rooted, committed and fully respect the principles and rights recognized in the Convention. **They can be only those that are led, directed and governed by persons with disabilities**. A clear majority of their members must be recruited from the persons with disabilities themselves.⁴⁵*

The Committee clarifies that Organizations "of" persons with disabilities should be distinguished from organizations "for" persons with disabilities, which provide services and/or advocate on behalf of persons with disabilities. States parties should pay special attention to the views of persons with disabilities through their representative organizations, support the capacity and empowerment of such organizations and ensure that priority is given to ascertaining their views in decision-making processes⁴⁶. The Committee, requires that issues for persons with disabilities should be addressed primarily from the perspective of the persons with disabilities in relation to the views of their representative organizations.

In reference to the participation of persons with disabilities at the national, regional and international levels, the Committee recommends that States parties should strengthen the participation of organizations of persons with disabilities at the international level, for example in the high-level political forum for the sustainable development and regional and universal human rights mechanisms. The participation of persons with disabilities, through

⁴⁴ Same as in index 41, f 7.

⁴⁵ Same as in index 41, p10&11, f. 2.

⁴⁶ Same as in index 41, f.4.

their representative organizations, thus resulting in greater effectiveness and equitable use of public resources, leading to improved outcomes for these persons and their communities⁴⁷.

The Convention, in Article 33 [Implementation and monitoring of the Convention at the national level] also requires the involvement of civil society in national mechanisms for implementation and monitoring, where the participation of organizations of persons with disabilities in these mechanisms is also required, considering that if represented by persons with disabilities themselves, the quality of monitoring and implementation will be increased.

Undoubtedly, both the Convention and the Committee exclusively address women and girls with disabilities in all areas covered by the Convention, but in particular, they also address participation. For all the aspects that were presented above, the Committee and the Convention, require the guarantee and commitment of the organizations of persons with disabilities that represent women and girls with disabilities to ensure their direct participation in all public decision-making processes in a safe environment, especially in relation to the development of policies related to women's rights and gender equality, violence against women, including sexual violence and abuse⁴⁸.

III. EUROPEAN UNION STRATEGY ON THE RIGHTS OF PERSONS WITH DISABILITIES 2021-2030⁴⁹

The Strategy for the Rights of Persons with Disabilities 2021 -2030 - Union for Equality, aims to further advance progress in ensuring the full participation of persons with disabilities. The strategy will lead the actions of the Member States as well as of the EU institutions, relying on the achievements of the previous ten years, offering solutions for future challenges.

The strategy aims to advance in all areas the United Nations Convention on the Rights of Persons with Disabilities, both at the level of the EU and at the level of the member states.

The aim is to ensure that disabled people in Europe, regardless of gender, racial or ethnic origin, religion or belief, age or sexual orientation: enjoy their human rights; have equal opportunities; have equal access to participate in society and the economy; are able to decide where, how and with whom they live; can move freely in the EU regardless of their needs for support; they don't experience discrimination anymore⁵⁰.

The content of the strategy document addresses areas such as access ibility, enjoyment of EU rights, good quality of life and independent living, equal access and non -discrimination,

⁴⁷ Same as in index 41, f 7.

⁴⁸ Same as in index 41, f 18.

⁴⁹ *Union of Equality- Strategy for the Rights of Persons with Disabilities 2021-2030*
[file:///C:/Users/FastTech/Downloads/KE0221257ENN_002%20proof%20%20\(5\).pdf](file:///C:/Users/FastTech/Downloads/KE0221257ENN_002%20proof%20%20(5).pdf) .

⁵⁰ <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8376&furtherPubs=yes> .

global promotion of people's rights with disabilities, effectiveness in delivering strategy, leading by example, awareness, and governance and measuring progress.

Accessibility has been addressed since the beginning of this document because it is considered as a precondition of the rights, autonomy and equality⁵¹. Accessibility is considered a prerequisite for the full participation of persons with disabilities on an equal basis with others, with particular emphasis on built and virtual environments, for information and communication technologies (ICT), goods and services, including transport and infrastructure.

The Commission has summarized a series of requirements within the EU, both in terms of the legislative framework and for the standardization of technical specifications in all areas that include access and has presented a plan for implementing actions. The main initiative of 2022 was, the European resource center "AccessibleEU" aiming to increase coherence in accessibility policies and facilitate access to relevant knowledge. This was intended to bring together national authorities responsible for the implementation of accessibility rules with experts and professionals from all areas of access ibility to share good practices across sectors, to inspire the development of policies at the national and the EU level, as well as to develop tools and standards that aim to facilitate the implementation of EU law⁵².

The event for the presentation of the AccessibleEU platform Launching Event (AW -EU-01)⁵³, was held on 4th of July, 2023, while, initially this platform will provide: online library for accessibility, networking, training for access ibility, monitoring and supervision of accessibility and other relevant practices.

The strategy document has also referred to participation under the section on exercising of the EU rights, in the section for promoting participation in democratic processes, underlining that Full Political Participation, as required by the CRPD means that persons with disabilities should participate in elections as well as in political and decision-making processes on an equal basis with others⁵⁴.

The Commission has concluded that there is still a need for progress, despite some steps taken, because, usually in practice there are difficulties for persons with disabilities in exercising their rights either due to limited access to information, communication, sign language, or limitations in their legal capacity. Therefore, the strategy aims to push forward the full electoral participation and access to the European elections (as voters and as candidates) of the underrepresented citizens, including citizens with disabilities; the advancement of practices and inclusive democracy with the aim that the lists of candidates

⁵¹ Union of Equality- Strategy for the Rights of Persons with Disabilities 2021-2030, Accessibility – an enabler of rights, autonomy and equality, f.6.

⁵² Union of Equality- Strategy for the Rights of Persons with Disabilities 2021-2030, f.8.

⁵³ <https://ec.europa.eu/social/main.jsp?langId=en&catId=1612&eventsId=2111&furtherEvents=yes> .

⁵⁴ Union of Equality- Strategy for the Rights of Persons with Disabilities 2021-2030, f. 9.

reflect the diversity of societies; the European guide for good electoral practices that addresses the participation of citizens with disabilities in the electoral process; addressing the needs of citizens with disabilities in the voting summary; supporting inclusive democratic participation, including persons with disabilities through the new programme, Citizenship, Equality, Rights and Values.

Although, this strategy is not part of our analysis, it is important to take it into consideration while designing the government plans and policies to address the issues of persons with disabilities, since in parallel with the obligations for the implementation of the CRPD, Kosovo should push forward the process of accession to the European Union.

IV SUSTAINABLE DEVELOPMENT GOALS AND DISABILITY

The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by the United Nations in 2015 as a universal call for action to end poverty, protect the planet and ensure that by year 2030 all people enjoy peace and prosperity.

It remains to analyse the Sustainable Development Goals⁵⁵, which includes 17 goals in the 2023 Agenda for Sustainable Development. Although in principle all objectives have targeted areas that are equally important for everyone, it has been counted that the 2030 Agenda for Sustainable Development has mentioned disability 11 times, specifically including it in five (5) Objectives, in the:

Objective 4 – Ensuring equal and accessible education, building inclusive learning environments and providing the necessary assistance to persons with disabilities;

Objective 8 – Promotion of the inclusive economic growth, full and productive employment that enables persons with disabilities to fully access the labour market;

Objective 10 – Social, economic and political inclusion of persons with disabilities;

Objective 11 – Creation of the accessible cities and water sources, affordable, accessible and sustainable transport systems, ensuring universal access to safe, inclusive, accessible and green public spaces;

Goal 17 – Underlining the importance of the data collection and monitoring of the SDGs, emphasis on the disaggregated disability data⁵⁶.

⁵⁵ Sustainable Development Goals (SDG), <https://social.desa.un.org/issues/disability/sustainable-development-goals-sdgs-and-disability>.

⁵⁶ https://www.un.org/disabilities/documents/sdgs/disability_inclusive_sdgs.pdf

V. THE LEGAL FRAMEWORK OF KOSOVO ON ACCESSIBILITY AND PARTICIPATION IN PUBLIC AND POLITICAL LIFE

The legal framework of Kosovo consists of legal acts which are directly applicable in the legal system in Kosovo. The highest political-legal act is the Constitution of the Republic of Kosovo. Laws, regulations, instructions and other legal acts must be in compliance with the constitutional provisions.

Unlike chapter I, where we addressed the legal acts that deal with disability in general, in this part we will analyse the acts that have addressed the important areas for this analysis, the accessibility and participation in public and political life. Eventually, legal provisions dealing with disability in general and specific areas in particular can also be found in other legislation, but we remind that the legislation chosen for this analysis, considering it is exclusive to disability, has materialized the content only for these two areas. Also, other legislation in Kosovo, even if it has not addressed issues of disability specifically, it has addressed issues that regulate certain areas that affect the life of each person, and those provisions should be seen in the spirit of comprehensiveness.

Definition of Disability

Disability in the legislation of Kosovo is defined in the legal provisions that regulate the vocational training, professional rehabilitation and employment of persons with disabilities⁵⁷. The law has addressed several components: Disability; Persons with disabilities; Categories of persons with disabilities, as a result of injury, etc.

Disability – is defined as a limitation in access and usual activities in a person's daily life as a result of physical, sensory, intellectual or mental impairments, which prevent him from participating in usual daily activities.

Persons with disabilities – are persons who have long-term physical, sensory, intellectual or mental impairments which, in interaction with various barriers, may prevent their full and effective participation in society on an equal basis with others.

While the **categories of persons with disabilities as a result of the injury** have also been defined, which include: the war invalid, the civil war invalid, the work invalid, the person born with physical, sensory, intellectual or mental impairments, and the person who, as a result of an accident or illness, has a physical, sensory, intellectual or mental disability.

On the other hand, CRPD does not have a defined definition for disability, but by defining it as an evolving concept, it reflects a social model of disability where it clarifies that disability results from the interaction between persons with impairments and external barriers that hinder their participation in society.⁵⁸

⁵⁷ LAW NO. 05/L -078 ON THE AMENDMENT AND COMPLETION OF LAW NO. 03/L-019 ON THE QUALIFICATION, PROFESSIONAL RE-QUALIFICATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES, Article 3.

⁵⁸ UN/ UN Human Rights Office of the High Commissioner THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES/ Training Guide/ Professional Training Series/MODULE 2 – A SHORT INTRODUCTION TO THE

If we take a comparative look at the definition of disability in Kosovo, we conclude that while the CRPD reflects a social model because it focuses on barriers and not on impairment/disability, the definition defined by the legal provision in our country follows a medical model because it focuses on physical impairments, I quote '...as a result of physical, sensory, intellectual or mental impairments that prevent him from participating in ordinary daily activities.

Therefore, in the framework of drafting and amending/supplementing the legislation of Kosovo to harmonize it with the CRPD, an increased attention should also be paid to the way the disability is portrayed in the legislation with the aim that the definition reflects the spirit of the requirements of the CRPD.

Constitution of Republic of Kosovo on Accessibility and Participation

The Constitution as the highest political and legal act of the state has regulated and normed the main institutes. In the Constitution, there are no exclusive provisions regarding access for persons with disabilities. In Chapter II, on fundamental rights and freedoms, the constitution has clearly defined the state's obligation to protect and respect fundamental rights and freedoms, guaranteeing that 1. Human fundamental rights and freedoms are indivisible, inalienable and inviolable and are the basis of the legal order of the Republic of Kosovo. The Republic of Kosovo protects and guarantees the basic human rights and freedoms, provisioned in this Constitution. 3. Everyone has the duty to respect the human rights and fundamental freedoms of others. Article 21 [General Principles].

Article 24 [Equality before the Law], the constitution has guaranteed the equality of all persons before the law and legal protection, without discrimination. While, in paragraph 2, of the same article, it has also listed the bases of discrimination, those basis include also disability. The guarantee from paragraph 3 is important because it has legitimized the use of protective measures with the aim of advancing the rights of individuals and groups that are in a more unfavourable position, not limiting them in time but allowing the application of these measures until the purpose for which they were reached is achieved, the principles of equal legal protection do not prevent the adoption of necessary measures for the protection and advancement of the rights of individuals and groups that are in an unequal position. Such measures will be applied only until the purpose for which they were added is achieved, Article 24, par.3.

The Constitution of Kosovo has expanded the legal framework of Kosovo to the level of international standards by including them in the Constitution, the direct implementation of international instruments and has recognized the power of supremacy over the legal provisions in case of conflict, which it has listed in Article 22 of the Constitution.

If we look at this article, we find that CRPD is not currently listed in article 22⁵⁹. However, what we find in this article are: the European Convention for the Protection of Fundamental Human Rights and Freedoms and its Protocols; International Convention on Civil and Political Rights and its Protocols; Convention on the Elimination of All Forms of Racial Discrimination; instruments that have created standards, including discrimination and disability.

If we refer this further and interpret it in relation to article 53, we come to the conclusion that the Constitution of Kosovo has not been satisfied only with the creation of international standards for the guarantee of the rights, but has further strengthened these guaranteed standards, for which it requires to be interpreted in harmony with the judicial decisions of the European Court for Human Rights. Article 53 [Interpretation of Human Rights Provisions], guaranteeing judicial protection in case of violation or denial of any rights guaranteed by this Constitution or by the law, as well as the right to effective legal remedies if it was found that a such right has been violated, Article 54.

Whereas, in relation to the area of participation, the Constitution of Kosovo has explicitly regulated [Electoral and Participation Rights] in Article 45 and in Article 44 [Freedom of Association]. Both of these rights are also regulated by special laws, which we will discuss below.

The Constitution, in Article 45 [Electoral and Participation Rights], has guaranteed every citizen of the Republic of Kosovo who has reached the age of eighteen, even on the day of the elections, has the right to vote and to be elected, except when this right is limited by a court decision, ordering state institutions to support opportunities for everyone's participation in public activities and the right of everyone to democratically influence the decisions of public bodies

Also, the constitution has guaranteed [Freedom of Association] Article 44. By guaranteeing this right, everyone is enabled to establish an organization without having to obtain a permit, to be or not to be a member of an organization, as well as to participate in the activities of an organization. Including that in this right in principle, apart from special categories of employees, it is guaranteed the *Freedom* to establish trade unions and to be organized, in order to protect interests.

We can conclude that, as far as the relevant areas are concerned, the Constitution of Kosovo, as the supreme act that it is, has built the basic principles related to the most important areas, guaranteeing equality to all persons on the basis of which rights can also be addressed from both relevant areas.

Therefore, within the framework of the interventions, the amendment of Article 22 of the Constitution of the Republic of Kosovo, as approved by the Constitutional Court of Kosovo, which will include the CRPD in the Constitution, creates a sufficient legal guarantee for the

⁵⁹ Currently, the Constitutional Court of Kosovo has approved the inclusion of CRPD in Article 22 of the Constitution of Kosovo, now it is expected that the Assembly of Kosovo will vote on the change.

community of persons with disabilities in Kosovo and a strong basis for addressing Kosovo's legal framework in this area.

V.1 ACCESSIBILITY

In terms of human rights, accessibility refers to the comprehensive practices of eliminating barriers aiming to ensure equal access for persons with disabilities to, among others, built environments, goods and services, and facilities¹³.

According to the Convention on the Rights of Persons with Disabilities, Article 9, states that, "to enable persons with disabilities to live independently and fully participate in all aspects of life, States parties shall take appropriate measures to ensure access to persons with disabilities on an equal basis with others."⁶⁰

Key Words :

Independent living; full participation in all aspects of life; equal access to the physical environment; equal access to transportation; equal access to information and communication, including technologies and

information and communication systems; equal access to other facilities and services open or provided to the public, both in urban and rural areas.

In reference to access as one of the main preconditions for persons with disabilities that enables the implementation of other rights, Kosovo does not stand well at all in relation to enabling and providing access to physical environments, transport, information and communication and public services. In the Research report, "Where does Kosovo stand", the results are showing that as far as the accessibility is concerned, only 6.77% of the legal norms meet the conditions of the completed standard compared to the CRPD⁶¹. Usually these analyses were done mainly in urban areas. Rural areas were not addressed in any case. In many cities, in urban areas in recent years there have been interventions of the road infrastructure and public environments. Almost in none of the cities the elements for access of persons with disabilities have been fully addressed. Even in the cases where they have been addressed, most of those elements do not meet the criteria's of the technical specifications, for example, ramps have been built which have a very high angle of elevation, which makes it impossible for the wheelchair user to pass independently on that ramp or they are without tactile paving - independent living, as mandatory requirements of the Convention. Various reports on accessibility conclude that despite efforts, this standard is too low to be evaluated.

⁶⁰ Andrea Broderick, *Of rights and obligations: the birth of accessibility*, <https://www.tandfonline.com/doi/full/10.1080/13642987.2019.1634556#:~:text=Accessibility%20refers%20to%20the%20inclusive,services%2C%20as%20well%20as%20facilities>

⁶¹ EU and HANDIKOS, *Study Research Report, INTERNATIONAL STANDARDS ON DISABILITY - WHERE DOES KOSOVO STAND? Assessment of Kosovo's legislation regarding disability issues in relation to the United Nations Convention on the Rights of Persons with Disabilities*, f.23 http://handi-kos.org/wp-content/uploads/2004/05/Report_SHQ-29_04_20_95548.pdf.

Accessibility, as one of the fundamental prerequisites for the realization of other rights for persons with disabilities, is specifically addressed only in ADMINISTRATIVE INSTRUCTION -No. 33/2007 ON CONSTRUCTION BUILDINGS TECHNICAL TERMS OF ACCESSIBILITY FOR PERSONS WITH DISABILITIES. Whereas, the provisions that refer to some aspects of access are also included in some specific laws that address persons with disabilities.

For the purposes of this analysis, we will analyse the legislation exclusively focusing on disability compared to Article 9 of the CRPD with the special emphasis on: the physical environment, transport, information and communication and public services. In this context, we will also address some other provisions that indirectly contribute to accessibility and are related to the comparative aspects.

V.1.1 Physical Environment

The physical environment, according to Article 9, includes everything provided to the other citizens so that persons with disabilities can live independently while respecting their dignity.

Roads, sidewalks, city center, public spaces, parks, spaces around and in public institutions, health centers, hospitals, places for recreation, facilities school, educational, cultural, tourist, parking lots, building entrances - are just some of the components that physical environment includes.

Exclusive laws for persons with disabilities have treated the community of persons with disabilities separately⁶², based on the type of disability. In this sense, we will present the analysis of the legal provisions based on these divisions, treating the issues regulated according to the components of the accessibility in the context of all the analysed legal acts.

The physical environment, based on this division, has not been treated as a separate field. However, in general and in the context of interpretation, the legal provisions that guarantee equality and protection from discrimination indirectly address some aspects of the physical environment.

The legal provisions of Article 4⁶³, have guaranteed protection for the beneficiaries of the law from all types and forms of exploitation, discrimination, abuse, insult and mocking and the exercise of their rights and freedoms equally with others based on international standards for human rights. Article 4, of Law No. 05/L -067, has further specified the legal basis of these rights and requested that this protection should be provided based on the Constitution and applicable laws, the international standards for human rights recognized by the International Conventions on Human Rights and with special emphasis on the

⁶² Community of persons with disabilities, such are; blind persons, deaf, paraplegics, tetraplegicks, etc.

⁶³ LAW No. 04/L – 092 FOR BLIND PEOPLE and the Law No. 05/L -067 ON THE STATUS AND RIGHTS OF PERSONS WITH PARAPLEGIA AND TETRAPLEGIA.

standards and principles defined by the International Convention on the Rights of Persons with Disabilities.

A definition better oriented towards the physical environment is the part of the legal provision with which is requested from the Institutions responsible for the approval of the projects for infrastructure and the regulation of the territory not to approve any project for roads and public environments if they don't include the necessary and possible adaptations for blind people, Article 15 par. 1 [Benefits and other rights], of the Law no. 04/L-92. This legal provision has been addressed to the institutions responsible for the regulation of the environment since the entry into force of this law⁶⁴, requesting from them that the approval of the project for infrastructure and territorial regulation should be limited to meeting the criteria for the necessary adaptations for blind people, in general, without enumerating the criteria.

However, the organizations of persons with disabilities⁶⁵ consider that the requirements of this law have not been implemented at all in practice, or only partially in some segments and only in the urban area, mainly in Pristina, because in other cities of Kosovo, including their urban areas the adaptations in the streets and public environments are missing. Whereas, rural areas are unaffected by the effect of this or any other similar law, as required by Article 9 of the CRPD and the Recommendations of the Committee on the Rights of Persons with Disabilities, that the adaptations of the physical environment must include the urban and rural areas⁶⁶.

Article 3, [Definitions], of the Law No. 03/L-19⁶⁷, in the context of ensuring the implementation of the rights to employment, vocational training and professional rehabilitation, has further specified, defining suitable adaptation of the environment - as the measures undertaken with the aim of ensuring an environment without different kind of barriers for ensuring appropriate access for persons with disabilities; and the definition of Assistive devices - devices that are used by people with disabilities, in order to overcome obstacles that limit their participation in daily activities. Both of these definitions address environmental issues for persons with disabilities, while there is little or no complementary legal regulation to clearly define what an appropriate environment should look like and what those aids are, in reference to the working environment for persons with disabilities. By defining these components in function of the purpose of this law, it has addressed the basic prerequisites so that persons with disabilities can enjoy the right to education according to Article 24 of the CRPD and the right to employment according to Article 27 of the Convention, because it means that access in general and the physical environment in particular are closely related to other rights arising from the Convention and that it is a

⁶⁴ Date of entry into force 18 July 2012.

⁶⁵ Legislative group for accessibility, established for the purpose of this analyse.

⁶⁶ UN/CRDP/C/GC/2/ Committee on the Rights of Persons with Disabilities Eleventh session/ General comment No. 2 (2014)/ 22 May 2014, f.1, file:///C:/Users/FastTech/Downloads/CRPD_C_GC_2-EN.pdf.

⁶⁷ LAW Nr. 03/L-019 FOR VOCATIONAL TRAINING, PROFESIONAL REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES.

prerequisite for ensuring, guaranteeing and protecting the rights originated from the Convention.

The lack of access to physical environments and the necessary adaptation for persons with disabilities directly affects the education and employment of this community. Although there are no accurate statistics, the organizations of persons with disabilities⁶⁸, based on their available data, state that many persons with disabilities do not continue primary education as compulsory education, even fewer continue secondary education, while a very small number continue their university education.

While the employment, although this law sanctions employers with fines, requiring that public and private institutions in Kosovo for every 50 employees should employ at least one person with disabilities, this standard is still far from being met. E. g. the Association of the Blind of Kosovo states that only around 50 blind people⁶⁹ are employed in both sectors (public and private), while the Association of the Deaf of Kosovo⁷⁰ states that the community that is considered semi-deaf, mainly work. HANDIKOS, states that there are around 150 persons with disabilities employed in both sectors (public and private).

Therefore, it can be concluded⁷¹ that the primary legislation of Kosovo only partially regulates the issues of the physical environment, while even these provisions that partially address this component, are not fully implemented in practice, and apart from the lack of general regulations, non-implementation is challenge in itself. Therefore, if it is compared in reference to Article 9 of the Convention, it is considered that there is a need for a new legislation with the reference to the physical environment and for the implementation mechanisms of the current legislation and the one that should be drafted.

The physical environment has been treated with in a broader manner by AI 33/2007⁷², dated 18.06.2007, which originates from Law No. 2004/15, of 2008⁷³. The Instruction deals in more details with the various elements of accessibility, including the physical environment, but is limited only to the scope of the act - construction objects, so that the Instruction aims to regulate the technical terms and conditions and the way of ensuring unhindered access, movement, housing and work of persons with disabilities; modernization of access to public construction facilities for work, residential and residential-business purposes; as well as the conditions and adoptions for the simple access to the construction object with residential and residential-business purpose (Article 1 of the UA). The primary aim was to regulate the elements of access to public institutions and environments intended for the public without

⁶⁸ Legislative working group for accessibility, 12.06.2023.

⁶⁹ From 2000 blind persons registered in Kosovo, 1800 are included in the social schemes for Blind.

⁷⁰ Approximately 5000 deaf people are living in Kosovo, 4997 are considered as half-deaf, not included in the social schemes but they receive interpretation services, e.g. during year 2023, are provided 2700 interpretation services that are financed with the public funds.

⁷¹ Conclusion was reached in the meeting of the legislative group for accessibility on 12.06.2023.

⁷² ADMINISTRATIVE INSTRUCTION -Nr. 33/2007 ON CONSTRUCTION BUILDINGS TECHNICAL TERMS OF ACCESSIBILITY FOR PERSONS WITH DISABILITIES. (Repealed with the decision of GRK, Nr. 02/50 of the date 23.12.2021) - (Remains applicable with the decision of the GRK, No. 05/56 of the date 26.01.2022).

⁷³ Currently, this law has been repealed by the new construction law, LAW NO. 04/L – 110 FOR CONSTRUCTION, while if the old law and AI 33/2007 are compared, it is concluded that the AI is earlier than the law, however this instruction is still in force according to the Decision of the GRK, no. 05/56, dated 26.01.2022.

excluding the private sector, up to the limitations related to the provision of services to the public and/or if they are intended for the public.

AI requires that the modernization and adaptation of access to construction facilities should be done starting from the designing process, then materializes during the construction works, so that the construction facilities have mandatory elements of accessibility and fulfil the terms and conditions of the accessibility for PWDs. The mandatory content of the project, Article 54, for the types of objects defined in this instruction describes the content of the technical solution by which the elements for access are determined. The technical solution is presented, depending on the level of the project work, in the same way as the project-idea, the main project and the realization project of the construction object.

Another requirement related to the construction facilities is that they must also have elements of access to the exit roads/spaces in case of danger. While the owners of those facilities are required to ensure maintenance of the accessibility elements in order not to reduce the conditions of use of aids for the movement of PWDs, including the presentation of information, accessibility signs of suitable size and located in visible places. Exceptionally, if the necessary element for access has not been determined for the specific construction object, then it is required that at least the technical solution of the construction object must meet the conditions for the use of auxiliary tools (assistive devices).

According to the instruction, all public buildings with a working permit, listed in article 44 of this instruction, have the obligation to implement the elements required for access.

With special emphasis, the instruction refers to:

Public and administrative construction facilities, and

Residential and residential-business construction objects.

Within the framework of the public and administrative construction facilities, the instruction has numbered about 15 categories of these facilities which obligate the implementation of elements for accessibility (Article 44 of the UA), then it has broken down which types of facilities fall into each category that includes a large number of facilities⁷⁴: constructions for commercial, hotel and tourist services; postal and/or telecommunication constructions; constructions for the provision of money circulation services and other financial services; constructions for administrative purposes; constructions for social, health and rehabilitation purposes; buildings in which PWDs stay most often; constructions dedicated to education and training; constructions dedicated to culture; constructions dedicated to traffic; constructions dedicated to sports and recreation; constructions for religious and sacral services; constructions dedicated to entertainment; prison buildings; surfaces and public spaces; and other constructions, including: fairs and exhibition centers, public toilets, constructions that must have 4 or more WC units, chapels and crematoriums, public shelters and the like.

Within the second group - residential and residential-business construction objects are included:

⁷⁴ AI 33/2007, Article 5.

- 1) Residential building with ten or more apartments, exclusively for residential purpose.
- 2) Residential-business object that is an object with residential purpose and other purposes, and that has ten or more apartments.

In the case when these facilities are intended for work, the instruction obliges the owners to provide accessibility elements depending on the purpose of work in that facility. Likewise, if there is a public space for business purposes in the residential building, then in that building, depending on the type of activity that is carried out in that space, all the elements of access must be applied.

The requirements of the instruction for the adequate application of the elements regarding accessibility are a condition for the use of the aids defined in article 6 of this instruction, which means: the space necessary for the movement of the PWD with a wheelchair; the space required for the use of a cane, crutch, walking aid, and the space required for the use of a white cane and guide dog.

AI 33/2007, has categorized the Obligatory Elements for accessibility into 3 types:

1. *Elements for access to levels with different heights (ramps, stairs, elevators, vertical lifting platform, folding climbing platform);*
2. *Elements of access to independent living (entrance space, communication, toilet, cleaning cabin, kitchen, rooms, classrooms, work space, apartment, cafes and restaurants, wardrobes, shower cabin, entrance to the water in the pool, places in tribune, telephones, text phone, fax machine, ATM, electrical installations, door and window handles, counter, console, notice board and exhibitions, plan for orientation of movement in buildings and similar);*
3. *Elements for access to public transport (station, parking lot, public areas for pedestrians, traffic lights, pedestrian crossings, pedestrian islands and intersections).*

Whereas, the tactile paving access is about the realization of relief works at a height of up to 5 mm in order not to make it difficult for the PWD to move with a wheelchair, to be familiar with the touch of the foot or with a white stick, no standing water, snow and waste, as well as being easy to maintain.

The access elements that were discussed above are also required for the public construction facilities with the working purpose defined in the instruction which are reconstructed or will be reconstructed.

Disregarding the elements defined for access can only be done exceptionally and only as provided in Article 52 of this instruction, in cases of reconstruction of the public and administrative construction object, which is located in a urban complex and registered as the cultural monuments of Kosovo, it is not possible to ensure the foreseen specified accessibility elements, so as not to destroy the values of the cultural monument, it is exceptionally allowed to disregard the elements specified for accessibility, provided that consent is obtained from MESP, and along with the proposal for consent from MESP, the

opinion of the competent body for the protection of cultural monuments must be attached for the destruction of the values of cultural objects that would occur in the case of implementing the technical solutions designed for accessibility to the construction facility.

In order to facilitate the identification of accessibility elements and the standards for these elements, AI, in the last part of the annex⁷⁵ has presented with photos the various access elements that can be designed in new facilities or adapted to existing facilities

Although, AI 33/2007, has filled the gap of legal provisions for accessibility in general and the physical environment in particular in the primary legislation, it is still recommended⁷⁶ that this instruction or more precisely the content of this instruction become s law. Before that, the content must be completed and adjusted to address all elements of accessibility, including but not limited to physical environment, transportation, information and communication, and public services. From now on, the law should be supplemented with instructions and regulations that contain practical requirements, also for the reason that the legal basis of this instruction is controversial.

V.1.2 Public Transport

Public transport, in the context of Article 9, of the CRPD and other standards in the area, is about: *public means of transport (trains, buses, planes, boats, trams, etc.); general means of individual transport (taxi, bus, etc.); auxiliary facilities related to transport (stations, bus stations, airports, etc.); urban infrastructure related to mobility (roads, bridges, pedestrian crossings, sidewalks, etc.); information and communication within common auxiliary facilities (boards at bus stations, timetables, maps, information for travellers at airports, etc.); information and communication within collective means of transport (accessible information within trams, trains, buses, etc., about current and future stops, emergency procedures, how to call for help, etc.); digital information and communication (Digital platforms that provide real-time information on the transport system, online services to reserve a ticket or complaint procedures, etc.).*

All these areas, without being focused only on them, for all urban and rural areas, I add that in the recommendations of the Committee, the responsibility is extended not only to public institutions but also to private ones that perform services in the function of the public.

Same as in the case of the physical environment, the provisions that refer to public transport are scattered and fragmented in laws that deal with general aspects of categories of persons with disabilities and are far from the standards required by Article 9 of the Convention on the public transport, especially in the implementation part. Although in recent years in Kosovo, in all urban areas, there have been interventions in road and residential infrastructure, there are rare cases e.g. when technical specifications or access elements related to the mobility of persons with disabilities have been implemented.

⁷⁵ AI 33/2007, ANNEX PRESENTATION OF THE PHOTOS WITH SIGNS FOR ACCESS, PRECONDITIONS TO USE THE ASSISTIVE DEVICES FOR ACCESS, f. 34.

⁷⁶ Working group for accessibility, 12.06.2023.

In reference to public transport and with the aim of creating facilities, the Law on Blind Persons, Article 13 and the Law on the Status and Rights of persons with Paraplegia and Tetraplegia, with Article 15, has standardized the travel component for persons with disabilities – namely blind people, people with physical disabilities and their companions or their guardians, for whom it has provided exemptions from payment in urban traffic, while exemption for 50% of the ticket value in inter –urban traffic. Also, with this article, private and public operators are obliged to reserve (mark) the places for the blind and place the corresponding signals, in relation to the benefits of exemption from fiscal obligation.

Organizations of persons with disabilities⁷⁷, in reference to this legal provision have stated that these provisions are fully implemented when it comes to urban public traffic, mainly in Pristina, while they are not applied to inter –urban traffic. Moreover, in other urban and rural areas they are not implemented at all or only partially implemented in some locations. They point out that in urban traffic buses there are some places marked in the Braille alphabet, there are seats–spaces and signals for persons with paraplegia and tetraplegia, but this is only in the new buses and only in Pristina. The situation in other cities is not the same. Usually, to prove the status of a person with a disability people should present their disability cards. However, the use of this legal guarantee remains unfulfilled due to the lack of other supporting infrastructure that would enable people with disabilities to exercise the benefits of travel exemption.

AI 33/2007, on the other hand, has more specifically regulated the issues related to public transport and has tried, through the annex of the instruction to provide number of technical specifications regarding the requirements for Elements of access to public transport, article 36, which are: stop – station, parking lot, public areas for pedestrians, traffic lights, pedestrian crossings, pedestrian islands and intersections, regulating for each element the requirements for the standardization of these elements so that they are accessible to people with disabilities .

However, when we talk about the actual situation in transport, people with disabilities have continuously emphasized that motorized vehicles that circulate in public traffic are not always equipped with elements that enable the transport of people with disabilities. Some of the vehicles are old and others lack the main elements for accessing the public transport, including but not limited to the relevant elements for transport vehicles and other auxiliary elements related to transport in general. This means that in most cases the transportation system (road, sidewalk, bus stop, barriers, lack of ramps, etc.) is inaccessible to people with disabilities and this are the reasons that people with disabilities have been deprived of exercising the basic rights such as education, health, employment and other rights related to unrestricted access to transport and in many cases have faced with additional travel expenses. Article 9 of CRPD requires the identification and elimination of obstacles and barriers, among others, on the roads, in transport and in other auxiliary infrastructure, and this is not limited to public transport, but to all operators who are responsible for providing

⁷⁷ Legislative working group for access - 12.06.2023.

services to the public, and who are obliged to create unhindered access to all means intended for the public.

In an inalienable way, this is directly related to exercising the right on education because the Committee⁷⁸ has found that 'without accessible transportation to school, accessible buildings, accessible information and communications, persons with disabilities will not have opportunity to exercise their right to education' (guaranteed by Article 24 of CRPD), also guaranteed by the Constitution of Kosovo and a wide range of other rights.

V.1.3 Information and Communication *(including services provided from public Media (TV, radio) and Internet)*

Article 9, of the CRPD refers to Information, communication and other services, including electronic and emergency services, but is not limited to these, because it includes, among others, information and communication technology (ICT), as a modern achievement of current development.

ICT- is an umbrella term that includes any information and communication device or application and its content, which, among others, includes access to a wide range of technologies such as: radio, television, satellite, mobile phones, fixed lines, computers, devices and network, internet software.

Whereas, Communication-includes languages, text display, Braille, touch communication, large print, accessible and written multimedia, audio, plain language, human modes of verbal and non-verbal communication, communication tools and formats, including accessible information and communication technology⁷⁹. Also, in this component, the tools of universal design and in reference to the approach, for the realization of the guaranteed rights, but especially for the realization of the right to education, which can be a topic for a separate analysis, are included.

In reference to the area of information and communication, the situation regarding the legal provisions governing this field is the same as with other fields.

The Law on blind persons in Article 11 [Access to information], regulates the requirement that blind persons are provided with the information in braille, in relief, enlarged writing, as well as in audio for all signals in public areas, official public information, literature text books, and books at all school levels in cooperation with the Association of the Blind of Kosovo, transferring the responsibility for implementation to the Ministry of Education, Science and

⁷⁸ UN/CRDP/C/GC/2/ Committee on the Rights of Persons with Disabilities Eleventh session/ General comment No. 2 (2014)/ 22 May 2014, f. 11.

⁷⁹ Council of Europe, Anna Lawson, *Accessibility of information, technologies and communication for persons with disabilities Contribution to the Council of Europe Strategy on the Rights of Persons with Disabilities*, f.11; f. 16, <https://rm.coe.int/final-study-accessibility-of-information/168072b420>.

Technology, the Ministry of Culture and the Ministry of Infrastructure (Article 11 par. 2). However, there are no other provisions or other acts which regulate the procedure of how these provisions should be implemented.

The Law on the Status and Rights of persons with Paraplegia and Tetraplegia refers to this area in the context of Freedom of expression and opinion, as well as access to information, Article 6, guaranteeing the right to express their opinions including the freedom to seek, receive and disseminate information and ideas on an equal basis with others and through all forms of communication of their choice.

Administrative Instruction No. 33/2007, although it does not have the source from the above-mentioned laws for the purpose of information, it has addressed [the orientation plan for movement in buildings], Article 35, through which it requires that the orientation plan for movement in the building must be implemented in relief form that meets the conditions so that: it is placed horizontally up to a height of 90 cm, i.e. vertically up to a height of 180 cm; be located near the entrance of the building; contain information in Braille; from the entrance door of the building to the plan there should be a tactile paving leading the direction of movement; to be marked with an access sign according to fig.1., adequate of the annex of this Administrative Instruction.

GRK Regulation No. 15/2014 on the Provision of Sign Language Services in the Republic of Kosovo, has been functioning for the purpose of legal regulation of the information and communication component for the deaf persons, including information through public media-television, has specified the provision of sign language services for deaf people by public institutions at the national and local level. The regulation also defined responsibility for funding services, training and certification of sign language interpreters, publication of information, and responsibility for enforcement.

By means of the regulation, it is defined: Coordination in the provision of services in sign language and; The procedure for the provision of services in sign language for deaf persons and for public institutions, while it has guaranteed that the Government of the Republic of Kosovo by decision on an annual basis will allocate financial resources for the provision of services in Sign Language for the entire country.

Also, the regulation has also addressed the training and certification of sign language interpreters with the aim that only accredited sign language interpreters can provide interpretation in sign language in an institutional and official manner.

For the purpose of information and facilitate the communication for deaf people, Publication and information, Article 17 has asked the OGG and KAD to create a special link on their institutional web pages and to publish this regulation in sign language; the template for providing services in Sign Language; the guide for the provision of services in Sign Language; and, all materials necessary for the provision of sign language services to deaf persons and institutions.

This regulation has delegated the responsibility for monitoring and implementation of this regulation at the central and local level to the OGG (Article 19).

While the other components of the request for accessibility in reference to Article 9, of the CRPD, have not been addressed in this part of the legislation that refers to persons with disabilities, so this aspect should be handled with the new legal framework harmonized with the CRPD.

V.1.4 Public Services

Public services in the context of Article 9, of CRPD and other international standards are broad, in the sense that they include a set of resources that are intended to support people in a society or community.

Public services include but are not limited to; health care, education/training, energy, legal services, telecommunications, transportation services and transportation infrastructure, urban planning, emergency services, water supply, environmental protection, sanitation services, postal services, recreation services, economic programs, etc. of agricul ture, social services, public buildings, etc.

Public services are the most scattered field to be researched in the context of persons with disabilities. In the laws listed for analysis, we find legal provisions that refer to various issues related to public services, however, even these existing provisions are very few and only partially implemented in practice.

Health care - in the legal provisions of the Law on blind people, Article 9, it is determined that basic health services are offered in the same quality and quantity as for all citizens, while medical services offered to blind people who do not pay premiums will be reimbursed by the Ministry of Health and the Health Insurance Fund. However, there is no health insurance in Kosovo, even though there is a law on this issue since 2014.

While the Law on the status and rights of persons with paraplegia and tetraplegia, Article 13, has guaranteed exemption from premium payment and any other additional payment in the public health system. Also, the law has addressed the group of people who do not have the opportunity to visit the public health institutions, guaranteeing the benefit of the home health service from the licensed health professional, family doctor and specialist doctor for those medical services that can be performed in ambulatory and in home conditions.

On the basis of this law, the List and types of free assistive devices for persons with paraplegia and tetraplegia that serve them for movement, prevention and assistance⁸⁰ has been drafted, as part of the legal act which has been approved but which has not yet entered into force while the competent institutions will offer health, physical and social rehabilitation for the beneficiaries of this law according to the assessment of the evaluation commission. These provisions are not applied due to the fact that the competent institutions either do not have experience or do not have experts or they are not equipped with tools and knowledge for working with people with disabilities. However, the law determines the Ministry of Health⁸¹ responsible for the implementation of these provisions.

⁸⁰ ADMINISTRATIVE INSTRUCTION (GRK) No. 11/2022 FOR DEFINING THE LIST, TYPES AND ASSISTIVE DEVICES THAT WILL BE PROVIDED FOR FREE FOR PERSONS WITH PARAPLEGIA AND TETRAPLEGIA AND ARE USED FOR MOVEMENT, PREVENTION AND ASSISTANCE. 28 November 2023/ Article 15.

⁸¹ Legislative working group for accessibility members of HANDIKOS, dated 06.07.2023.

The Law on Blind Persons has addressed the issue of construction of rehabilitation centers, Article 12, determining that the Government allocates funds for the construction of rehabilitation centers with sufficient capacity for blind persons, while the Administration of rehabilitation centers is with the authorization of the relevant Ministry in cooperation with the Association for the Blind of Kosovo.

Compensations - Pensions - The right to disability pensions financed by the state is guaranteed by the Law on pension schemes financed by the state, in which disabled persons are defined as a community that will benefit under the disability pension scheme. Compensations as means of facilitating the lives of disabled persons, in the Law on the status and rights of persons with paraplegia and tetraplegia, regardless of age, Article 7, has guaranteed a compensation at a certain level from the state budget based on the minimum salary in Kosovo⁸². Based on the evaluation by the evaluation commission, people who have permanent and full consequences in incontinence, use medications on a daily basis, have loss of complete sensitivity of the extremities and in order to prevent decubitus wounds receive an additional amount of fifty percent (50%) of the compensation from the specified rate. The law has stated that employment, self-employment or any other form of employment will not be grounds for exemption from compensation, as defined in this law.

The Law on Blind Persons Article 7, Income and benefits, has determined that blind persons, regardless of the age defined by this law, receive compensation from the state budget at a certain rate based on the minimum salary in Kosovo, but not less than one hundred (100) Euros per month, which is determined by a sub-legal act issued by the Government. For the payment of pensions, the responsibility falls to the Department of Pension Administration within the relevant Ministry (MPMS). The law has excluded from benefiting from this compensation the persons who are in institutions under state care.

Compensation for guardian-companion – blind persons and companions of the blind person who is categorized in the first group, the law guarantees compensation, after the need for a companion is determined by the Medical-Social Commission.

Whereas, for persons with paraplegia and tetraplegia, Article 8, their personal assistants, either chosen by the beneficiary of this law or chosen by the guardianship body, compensation with the same amount as the beneficiary of the compensation. Funds for compensation and assistants payments (Article 9) are provided from the general budget of the MLSW and the payment is made on a monthly basis by the Department for Pensions within the MLSW.

Education and training – for blind people in public institutions guarantees the use of braille, relief writing, writing with enlarged letters and texts in audio and digital technology by the Ministry of Education, Science and Technology. From which the MLSW, MEST and the Ministry of Health in cooperation with the Association of the Blind of Kosovo are obliged to provide and distribute tiflo-technical and tiflo-didactic equipment which facilitates the integration of blind people in society. However, the Community of blind people stated that

⁸² Compensation based on the degree of disability: families for their children with Disabilities receive 100 Euros; PWD -pension of Disability, 100 Euro; Blind people 125 Euros + companions 125; Paraplegics and tetraplegics 150 Euro + guardian 150 Euro + 75 Euro for incontinence and decubitus wound material; while the second group of them 150 Euro

this article is not fully implemented because in schools at all levels of education there is a lack of aids (tiflo-technical and tiflo-didactic devices) and also suitable learning material for blind people⁸³.

Persons with Paraplegia and Tetraplegia, Article 12 of the specific law, guarantees education in public and private institutions according to the applicable legislation by recognizing their right to free education at all levels of education in public institutions and accommodation in public dormitories. In reference to the accessibility, the legal provision of article 12 par. 3 requires that MEST in cooperation with MESP and municipalities undertake all measures in order for all educational institutions and universities whether private or public to ensure conditions and technical standards of facilities for access and accommodation of wheelchair users in accordance with the relevant legislation on construction. However, the participation of persons with disabilities is very small at all levels of education, initially due to the lack of physical access for this community of persons with disabilities and further, especially in higher education also due to the materials conditions⁸⁴.

Housing - Law on Blind Persons Article 8, in the legal provision, has guaranteed that the blind who meet the legal conditions to be considered as citizens in need of housing, at the end of the assessment of their need, benefit from an additional twenty (20) points, above the estimated measure. However, according to the association of the blind, there is no evidence or practical example that this provision has been implemented in practice⁸⁵. Law on the status and rights of persons with paraplegia and tetraplegia, persons who meet the legal conditions to be considered as citizens for housing, at the end of the assessment of their need will benefit from family housing in the construction of collective social housing facilities. In continuation, it is requested from the competent bodies of the local government to give priority to the solution of the requests of persons with Paraplegia and Tetraplegia for housing, taking into account their conditions, features and health status.

Exemption from taxes and duties – Blind persons are guaranteed exemption from all types of taxes and direct taxation under the specific law. By providing exemption even in the case of self-employment, they are freed from any fiscal obligation, while in case they develop activities as legal entities, they enjoy tax benefits which they realize according to the applicable laws. Meanwhile, persons with paraplegia and tetraplegia, Article 10 of the specific law, are exempted from taxes for registration of the personal vehicle or of the guardian. Also, the beneficiaries of this law are exempt from taxes for personal documents and civil status certificates.

Electricity and telephone expenses - Blind persons, based on the legal provision of Article 14, of the Law on Blind Persons, exercise the benefits in the consumption of electricity according to the Law on the Social Scheme. The government ensures that all blind people of the first group are equipped with speech assistive software for the blind. While the

⁸³ Legislative working group for accessibility - 06.07.2023.

⁸⁴ Legislative working group for accessibility 06.07.2023.

⁸⁵ Communication via email with Association of the Blind, dated 10.08. 2023.

persons from the Law on the status and rights of persons with paraplegia and tetraplegia, Article 14, enjoy a reduction in electricity consumption rates, according to the conditions determined by the competent bodies.

Infrastructure and territory - *The law on blind persons, in Article 15, has a legal provision [Benefits and other rights], through which it guarantees the beneficiaries of this law that the Institutions responsible for the approval of the projects for infrastructure and the regulation of the territory, do not approve any project for roads and public environments, if the necessary and possible adaptations for blind people are not taken into account. Also, the law guarantees priority in public services with a special emphasis on resolving claims.*

Legal provisions that are directly and indirectly related to public services, tending to mandate educational institutions, employment offices, vocational training centers and other legal entities that meet the criteria's for education and vocational training to develop government policies for vocational training, professional rehabilitation and employment of persons with disabilities, with the aim of creating conditions for the employment of persons with disabilities, are also in the Law on Vocational training, rehabilitation and employment of persons with disabilities and in addition to the amendment of this law, Article 8; Article 10.

While in relation to the guarantee of the right to employment, Article 12, [Employment in the open labour market], has obliged the bodies of the state administration, private and public sector employers as well as non-governmental organizations to employ persons with disabilities, with suitable working conditions and obliging every employer to hire one person with disabilities in every fifty (50) workers.

The employer who does not fulfil the obligations from paragraph 1 and 2 of this article, is obliged to pay monthly contributions in the amount of the minimum wage to the budget of Kosovo, in order to promote the employment of persons with disabilities.

Administrative Instruction 33/2007 did not address the public services in terms of their content but by addressing the elements for accessibility and auxiliary components of access it affected issues related to public services and especially public and administrative infrastructural facilities and all others that are of public purpose, without being limited to: constructions for commercial, hotel and tourist services; postal and/or telecommunication constructions; the provision of money circulation services and other financial services; constructions for social health and rehabilitation purposes; constructions dedicated to education and training; constructions dedicated to culture; constructions dedicated to traffic; constructions dedicated to sports and recreation; constructions for religious and sacral services; constructions dedicated to entertainment; prison buildings; and public spaces, etc.

Various aspects, both quantitative and qualitative, related to public services, should be part of the revised legislation in order to harmonize with the requirements of the CRPD.

V.2 PARTICIPATION IN PUBLIC AND POLITICAL LIFE

In terms of human rights and CRPD, Article 29, participation in public and political life is about, but not limited to: the right to vote, to participate actively in the elected process and to be a candidate to be elected, the right to hold office and perform all public functions at all levels of government, the right to participate in non-governmental organizations and to represent the organization, the representation of persons with disabilities at international, national levels, regional and local. Not only the presentation of these rights in the formal aspect is important, but also the materialization of these rights, e.g. in order to exercise the right to vote, the responsible institutions have the duty during the voting process to ensure procedures and materials that are accessible and understandable for persons with disabilities, so that the new technology is usable for persons with disabilities to ensure the expression of their free will, to offer help during the voting process by a person chosen by them, to make polling places accessible and other aspects that maximize the realization of their right to vote. Also, the participation of persons with disabilities in public and political life without discrimination, including participation in NGOs, associations, political parties and organizations that aim to promote the representation of persons with disabilities at local, national and international levels.

Key Words :

Participation in voting; Participation in elections; Representation in public institutions; Participation in non-governmental organizations and representation of organizations; Representation of persons with disabilities at international, national, regional and local levels.

In reference to participation in voting, as a fundamental and constitutional right, from the reports and final statements of the organizations that work on the monitoring of the elections in Kosovo, it results that despite all the progress that has been made, it is considered that there is still a need to work on the inclusion of persons with disabilities in the electoral process, including political party campaigns and participation in voting on election day.

A conclusion given by the EU Monitoring Mission for Municipal Elections in 2021, the Social Media Monitoring Unit of the EU EOM observed several campaign posts of the LDK, PDK and LVV aimed at voters with disabilities on Facebook and Instagram. The CEC included sign language in voter education messages and continued to provide touch ballots as well as brochures of candidates in Braille. For the first time, many polling places had lower voting compartments available for wheelchair users or the elderly. However, during the first round, EU observers reported that only 67 percent of the polling places visited had access for voters with reduced mobility, while in 78 percent of them the spaces were suitable for voters that are wheelchair users. During the second round, the EU teams noted that only 65 percent of polling stations observed were accessible to voters with reduced mobility, while the structure of the polling places was suitable for voters in wheelchairs in about 85 percent

of the visited polling places. Touch ballots were not available in 33 percent of the visited polling places⁸⁶.

While from the Preliminary Declaration of the Organization for Monitoring the Elections in Kosovo, *Democracy in Action*, regarding the early national elections of 2021, it was concluded that Despite the fact that over 200,000 people with disabilities live in Kosovo, their participation in electoral activities remains extremely low, as only 247 people participated in the monitored election activities in the seven main centers. The lack of adequate infrastructure for the access of persons with disabilities has made it difficult PRELIMINARY ELECTIONS FOR THE ASSEMBLY OF KOSOVO , 14th February 2021, and further their participation in election activities, since in 31% of the organized activities it was not provided adequate access for this category. In this election campaign, there were no cases where persons with disabilities addressed the electorate⁸⁷.

There are no official statistics on how many people with disabilities are employed in public institutions, but the number is relatively low and in many institutions the legal criterion of employing one person with disabilities in every 50 employees⁸⁸ is not even met. In the last year, there has been a slight progress to address the greater representation of PWDs in public institutions, e.g. in the last year, about seven (7) contests for people with disabilities were opened by public institutions.

As for the freedom of association, persons with disabilities are mainly associated around and in organizations of disabled people according to the type of disability, which advocate and lobby for advancing the position of persons with disabilities for participation in public and political life and for the rights of persons with disabilities. Some of the organizations of persons with disabilities are members and participants in their sister organizations at the regional and international levels.

V.2.1 Participation in voting and participation in elections

The electoral and participation rights are also guaranteed by the constitution as described in the section regarding the constitution. The same guarantees are given by the Law on General Elections, which guarantees the right to vote and be elected for every citizen of Kosovo without discrimination on the basis of race, ethnicity, colour, language, gender, religious belief or political belief, education, social affiliation or any other similar criteria.

⁸⁶ European Union, *Observation mission for the elections in Kosovo, Local elections 2021 – final report, page 37 out of 81.*, <https://www.eods.eu/library/Final%20Report%202021%20EOM%20Kosovo%20municipal%20elections%20-%20ALBANIAN.pdf>

⁸⁷ *Democracy in Action, Early elections for the Kosovo Assembly, PRELIMINARY STATEMENT, 14 February, 2021*, https://kdi-kosova.org/wp-content/uploads/2021/02/FINAL_Deklarata-preliminare-p%C3%ABr-zjedhjet-e-parakohshme-p%C3%ABr-Kuvendin-e-Kosov%C3%ABs.pdf

⁸⁸ Majlinda Ibrahim, KOHA Newspaper, in a research done in 2022, has found that the Ministries, which number 31,520 employees, according to the payroll, employ only 45 people with disabilities. Six ministries do not employ any disabled person. In the 37 municipalities of Kosovo, which count 42,924 people on the payroll, only 43 people with disabilities are employed. In 19 municipalities, there are no persons with disabilities employed as public officials. <https://www.koha.net/arberi/328814/ministrite-shkelin-ligjin-per-punesimin-e-personave-me-aftesi-te-kufizuara/?fbclid=IwAR3YYcfV0ElqroaoN-W2pNd4dOd-EeI5SBvFRKTSblyDSR1CoBPQD7CGdHO>

Equality in exercising the right to vote and cast an equal number of votes is guaranteed. The freedom and secrecy of the vote are equally guaranteed. No one has the right to prevent any citizen from voting, to force him/her to vote in a certain way, to hold him/her responsible for the vote, or to demand against his/her will that reveal his/her vote or reasons for not voting.

The law has also defined the Voting of Persons with Disabilities "Voting of Persons with Special Needs" (PWD), which means the agreements made and the procedures followed for those voters with the right to vote in Kosovo who cannot vote in person at the PP in which they are assigned for Election Day. In providing the guarantee from Article 89 [Right to Vote and Secrecy of Voting], paragraph 5, has regulated the voting method of persons with disabilities and/or those that have obstacles in regular voting, stating that the Voter who is with disability and as consequence he is not able to mark or cast the ballot and/or is illiterate may be assisted by another person chosen by the voter if he requests such assistance. Such a person only assists a voter and is not a member of the Commission in the PP or an accredited observer

Chapter XV [Voting of Persons with Special Needs], of the Law on General Elections, has once again referred to the community of persons with disabilities and has guaranteed and regulated their participation in the voting process, with number of provisions:

- a) voters with the right to vote who cannot leave their homes to vote in person at the usual polling place due to physical, medical or any other disability;*
- b) voters with the right to vote with limited mobility in any institution: voters in hospitalization, elderly people in homes specially designated for the elderly, people with reduced mental capacity in health care institutions, prisoners in prisons and pre-trial detainees in detention centers; OR*
- c) Voting in special circumstances: voters living in the communities who, due to displacement from the place near their regular polling place or for security reasons, cannot vote at their designated polling place. For this type of voting, approval is required from the Municipal Election Commission.*

The CEC, under the authority of this law, Article 59, is the central body for the management of elections in Kosovo and the guarantee of each person for the exercise of the right to vote. During the implementation of its mandate, the CEC, among others: creates appropriate procedures and undertakes activities to guarantee that all persons with disabilities can exercise their right to vote and participate fully in the electoral process in Kosovo.

The CEC publishes not later than 40 days before the elections the exact locations of all voting centers and ensures that the Polling Places (PP) are in an accessible place to enable voters to form and stand in line and should, when it is possible, have level access so that persons with disabilities have unhindered entry and exit. Polling stations have adequate lighting and protection from elementary accidents Article 83 [Locations of Polling Stations and Voting Centers].

The CEC, also at the right time, organizes and sponsors the voter education campaign. It distributes throughout the country, according to the Law on the use of languages, information on: a) voting procedures; and b) voters' rights and procedures for their protection, including complaint mechanisms. During the campaign for voter education, the CEC Secretariat pays special attention to voters in rural areas, with disabilities and illiterates, Article 107.

The CEC is also responsible for broadcasting information for voters, Article 108. The CEC prepares suitable material for broadcasting on radio and television to inform the public about the electoral process in Kosovo. The informational material prepared by the CEC for broadcasting on television contains a method for simultaneous broadcasting for people with impaired hearing in the language adequate for the needs of the language groups served by the broadcaster.

LAW NO. 03/L-072 ON LOCAL ELECTIONS IN THE REPUBLIC OF KOSOVO - regulates the elections for municipal assemblies and mayors at the local level. It provides the same guarantees as the general election law.

Factual situation: Organizations of persons with disabilities emphasize that despite the legal guarantees for participation in elections and voting and although some of the legal requirements have been met, (such as voting templates for blind people, voting materials provided, allowing voting assistance), the situation of persons with disabilities to effectively participate in the elections and voting is extremely difficult. As for the effective participation in voting in terms of the right to be elected, there is a lack of a participation quota for persons with disabilities in the electoral lists of political parties, and with the right to be included in the list, this is only based on the will and not mandatory and as a result we have very few people with disabilities, elected. While, regarding the participation in the elections and on the voting day, barriers continue to be present due to the physical access, the campaigns of the CEC are conducted in sign language, while the campaigns of the candidates are not⁸⁹.

V.2.2 Representation in public institutions - there are no legal obstacles in terms of the participation and representation of persons with disabilities in public institutions. However, this representation is very low compared to the number of persons with disabilities, as a result of the lack of access and the lack of adequate policies for the inclusion of persons with disabilities in public life and representation in public institutions.

V.2.3 Participation in non-governmental organizations and representation of organizations ; Law No. 06/L-043 on Freedom of Association in Non-Governmental Organizations Article 4, guarantees the right of each person to associate and to establish an organization without the need to obtain permission, to be or not to be a member of an organization, as well as to participate in the activities of an organization.

It also guarantees the right not to associate against his will, including protection from discrimination as a result of the decision to associate or not to associate.

⁸⁹ Legislative working group for participation, on 12.06.2023.

Also, the law guarantees the right of every person to establish a non-governmental organization, in accordance with the conditions and circumstances defined by the law.

This right is exercised equally, Article 5. The NGO exercises its activity in accordance with the principle of respect, protection and implementation of basic human rights and freedoms, defined in the Constitution, laws and applicable international agreements. Policies, legislation, as well as activities related to the NGO, are implemented in accordance with the bases defined by the relevant Law on protection from discrimination.

V.2.4 Representation of persons with disabilities at international, national, regional and local levels) - there are no provisions that explicitly regulate this issue, in any case, it is not prohibited by any provision and the principles and provisions for equality apply in relation to representation and non-discrimination. However, no affirmative actions or measures can be identified to encourage and support participation even though there have been symbolic cases of support.

Whereas, the representation of PWDs at national levels is relatively better, in relation to other levels, considering that DPOs during their advocacy work, have participated in a number of representation mechanisms or had the opportunity to influence institutional mechanisms through advocacy, representation at international and regional levels is not good, although there have been cases, for example, when the government has funded the participation of PWDs in various disability forums.

The most important mechanism for the representation of persons with disabilities at the national level is the Council for Persons with Disabilities (CPWD).

CPWD was established by the Prime Minister of Kosovo, as an advisory and guiding body on the determination of priorities and policies in the field of disability in order to monitor and implement national policies for the rights of persons with disabilities as the main permanent advisory body which coordinates the cooperation of the Government with organizations for persons with disabilities regarding the rights and issues of disability.

The Council for Persons with Disabilities consists of a total of 14 members and is chaired by the Deputy Prime Minister, while the Deputy Chair is the Director of the Office for Good Governance/Prime Minister's Office, while the members are in the capacity of Deputy Ministers from Ministry of Finance, Labour and Transfers; Ministry of Education, Science, Technology and Innovation, Ministry of Health, Ministry of Local Government Administration, Ministry of Spatial Planning and Infrastructure. In the capacity of members, there are also the organizations of persons with disabilities: HANDIKOS, HANDICAP KOSOVA, Kosovo Association of the Deaf, Kosovo Association of the Blind, Down Syndrome Kosovo, and Autism Association.

VI. INSTITUTIONAL CADRES FOR ACCESSIBILITY AND PARTICIPATION IN PUBLIC AND POLITICAL LIFE

Accessibility

The cadres of institutions, responsible for guaranteeing the provision and respect of accessibility in terms of the physical environment, public transport, information and communication, including public TV and Internet services and public services, are spread in different institutional sectors in the form of responsibilities for implementation of the legal framework of which those institutions are the owners.

The institutional legal protection for the implementation and respect of constitutional rights from Chapter II [On Fundamental Rights and Freedoms], is the Constitutional Court of Kosovo which is the final authority for the interpretation of the Constitution and the compatibility of laws with the Constitution. The Constitutional Court can examine the requests submitted by individuals and legal entities, who claim that public authorities (state bodies, administrative authorities, courts, etc.), have potentially violated the fundamental rights and freedoms guaranteed by the Constitution⁹⁰.

Also, legal protection of human rights is guaranteed through regular courts. For example, in 2022 and 2023, the Basic Court in Pristina and the one in Vushtrri have issued two judgments with which discrimination on the basis of disability for access, non-provision of reasonable accommodation has been concluded.

In terms of the administration bodies at the national level, the Office for Good Governance/Office of the Prime Minister and the relevant Ministries, that of transport, infrastructure, finance, welfare, health, education, spatial planning, etc., are responsible for monitoring and implementing relevant legislation according to the fields they cover.

The Office for Good Governance (OGG) has appointed an official who addresses the issues of persons with disabilities and also administers CPWD, given that the Director of OGG is also the Deputy Chairman of CPWD. While, at the level of the ministries, in some of them, human rights officials have been appointed, who also address disability in their portfolio of duties.

There is no national institutional infrastructure that has a special focus on disability. However, DPOs stated that in most cases they have the opportunity to meet the responsible officials in the relevant ministries to discuss important issues.

At the local level, the issues of persons with disabilities are also addressed through the relevant municipal directorates and officials for human rights, gender equality, and in some municipalities where they are functional, through Consultative Committees for persons with

⁹⁰ Constitutional Court of the republic of Kosovo, Instruction for individual requests KI, f.2, https://gjk-ks.org/wp-content/uploads/2023/07/gjkk_udhezuesi_per_kerkesa_ki_shq_26.07.2023.pdf

disabilities that operate either within the municipal administration or within the municipal assemblies.

Participation in public and political life

Same as in the case of access, also in the case of inclusion, there is no formal institutional infrastructure that mainly addresses participation. This remains under the authority of the bodies responsible for implementation in accordance with the relevant law.

Persons with disabilities are not permanently engaged in the bodies or institutions that implement and monitor the electoral process in Kosovo. However, there are cases when they were consulted by the CEC, regarding the organization of voting for persons with disabilities but there is no evidence if PWDs were included in the election monitoring process.

DPOs are regular members of CPWD and each DPO representing a group of persons with disabilities according to type, has its own representative in CPWD.

PWDs have also been involved in working groups for the drafting of legislation that addresses disability. However, there is no evidence if PWDs have been included in working groups for the drafting of legislation that deals with other areas, which also affects their rights and interests.

VII. SUMMARY FORM OF THE ANALYSIS OF THE LEGAL FRAMEWORK FOR ACCESSIBILITY AND PARTICIPATION IN PUBLIC AND POLITICAL LIFE

Accessibility

<i>Level of governance</i>	<i>Applicable Law/ regulation (including the Constitution and other acts: strategies, policies, guidelines)</i>	<i>The solutions provided in the legislation</i>	<i>Non-compliance with the obligations stipulated by the relevant article of the UN Convention</i>	<i>Required changes/ necessary to ensure compatibility</i>
<i>National Level</i>	<p>CONSTITUTION OF REPUBLIC OF KOSOVO</p> <p>https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702</p>	<p>Article 21 General Principles</p> <p><i>Guarantee and protection of human rights</i></p> <p>Article 22 Direct implementation of International Agreements and Instruments</p> <p>Article 24 Equality before the Law</p> <p><i>Equality before the law and the bases of discrimination</i></p> <p>Article 53 Interpretation of Human Rights Provisions</p> <p><i>In harmony with the judicial decisions of the European Court of Human Rights.</i></p>	<p><i>There is no</i></p>	<p><i>Inclusion of the Convention on the Rights of Persons with Disabilities (CRPD), in Article 22 of the Constitution of the Republic of Kosovo</i></p>
		<p>Article 54 Guarantee of judicial protection of rights</p>		
<i>National Level</i>	<p>LAW No. 04/L – 092 FOR BLIND PERSONS</p> <p>https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2837&fbclid=IwAR0HvY6Xivi_GBHM7hiUjwwwZ4nllkmrN8CO5jFe1lrUw9DoLawcGBu6g7kg</p>	<p>Article 4 Protection <i>Discrimination and equality</i></p> <p>Article 6 Exemption from taxes and taxation</p> <p>Article 7 Income and benefits</p> <p>Article 8 Housing</p> <p>Article 9 Health care</p> <p>Article 10 Education and Training</p> <p>Article 11 Access to information</p> <p>Article 12 Rehabilitation</p> <p>Article 13 Travel</p> <p>Article 14 Electricity and telephone expenses</p> <p>Article 15 Benefits and other rights <i>Infrastructure projects; the regulation of the territory in the provision of adaptations</i></p>	<p><i>Partial provisions in each element of access to the sector</i></p> <p><i>They do not fully regulate the physical environment, transport, information and communication and public services</i></p> <p><i>There are no provisions regarding services provided by public media (TV, radio) and the Internet, nor information technology</i></p>	<p><i>Law on the status and rights of persons with disabilities</i></p> <p><i>The sectors focused in this analysis (physical environment, transport, information-communication and public services) should be addressed as part of the applied legislation that addresses the relevant field in general</i></p> <p><i>Or</i></p> <p><i>Separate laws for each area.</i></p> <p><i>Special law for the financing of organizations of persons with disabilities / budget line for DPOs that provide services for PWDs in the absence of state services.</i></p> <p><i>Regulation / legal act for private buses and taxi operators, at national and local level.</i></p>

National Level	<p>Law No. 05/L -067 ON STATUS AND RIGHTS OF PERSONS WITH PARAPLEGIA AND TETRAPLEGIA</p> <p>https://qzk.rks-gov.net/ActDetail.aspx?ActID=12554</p>	<p>Article 4 Protection <i>Discrimination and equality</i></p> <p>Article 6 Freedom of expression and opinion, as well as access to information</p> <p>Article 7 Compensation</p> <p>Article 8 Personal guardian</p> <p>Article 9 Funds for compensation payments</p> <p>Article 10 Exemption from taxes and taxation</p> <p>Article 12 Education</p> <p>Article 13 Health care</p> <p>Article 14 Electricity expenses</p> <p>Article 15 Travel</p> <p>Article 16 Housing care</p>	<p><i>Partial provisions in each element of access to the sector</i></p> <p><i>They do not fully regulate the physical environment, transport, information and communication and public services</i></p> <p><i>There are no provisions regarding services provided by public media (TV, radio) and the Internet, nor information technology</i></p>	<p><i>Law on the status and rights of persons with disabilities</i></p> <p><i>Drafting of the regulations at the national and local level, with annexed checklists with indicators for assessing access to public buildings and those intended for the public</i></p> <p><i>Regulation / legal act for private buses and taxi operators, at national and local level</i></p> <p><i>Amendment-completion of REGULATION (GRK) NO. 07 /2017 ON THE COMPOSITION, FUNCTIONING, RESPONSIBILITIES OF THE EVALUATION COMMISSION AND THE DETERMINATION OF THE PROCEDURES FOR THE RECOGNITION OF THE STATUS AND RIGHTS OF PERSONS WITH PARAPLEGIA AND TETRAPLEGIA PERSONS</i></p> <p><i>Special law on the financing of organizations of persons with disabilities / budget line for DPOs that provide services to PWDs in the absence of state services</i></p>
National Level	<p>LAW No. 03/L -019 FOR VOCATIONAL TRAINING, PROFESIONAL</p>	<p>Article 3 Definitions <i>Definition of Environmental Suitable adaptation.</i> <i>Definition of Aids</i></p>	<p><i>The provisions of this law are partially implemented or not</i></p>	<p><i>Supplement-amendment of this law.</i> <i>Employment should be treated with a separate law to fully exhaust the</i></p>

	<p>REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES</p> <p>https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2620</p> <p>LAW NO. 05/L -078 FOR AMENDMENT AND COMPLETION OF THE LAW NR. 03/L-019</p> <p>https://gzk.rks-gov.net/ActDetail.aspx?ActID=2620</p>	<p>Article 5 Discrimination</p> <p>Article 8 Vocational Training, Professional Rehabilitation of Persons with Disabilities</p> <p>Article 10 Government policies for professional training</p> <p>Article 12 Employment in the open labour market</p>	<p><i>implemented</i></p> <p><i>They do not address the field as a whole</i></p>	<p><i>requirements for reasonable accommodation in the workplace.</i></p> <p><i>The law that deals with professional training and rehabilitation as a whole with the requirements of the field.</i></p> <p><i>Completing the amendment of the Law on Civil Servants</i></p>
National Level	<p>LAW NO. 04/L-131 FOR PENSION SCHEMES FINANCED FROM THE STATE</p> <p>https://gzk.rks-gov.net/ActDetail.aspx?ActID=9517</p>	<p>Article 4 The rights defined by this law</p> <p><i>Right to disability pension;</i></p> <p>Article 9 Conditions and criteria for recognition of the right to pension for permanent disability</p> <p><i>The disability pension is paid to citizens of Kosovo who possess identification documents, from the age of (18) to (65) years.</i></p>	<p><i>There is a discrepancy</i></p>	<p><i>Supplement-amendment of this law.</i></p>
National level	<p>Law Nr. 05/L -021 ON PROTECTION FROM DISCRIMINATION</p> <p>https://gzk.rks-gov.net/ActDetail.aspx?ActID=10924</p>	<p>Article 1 Purpose</p> <p><i>Basis of discrimination (disability is a basis)</i></p> <p>Article 2 Scope,</p> <p><i>It applies to all actions or inactions of all state and local institutions, natural and legal persons, public and private sector</i></p> <p>Article 4 Types of unequal treatment</p> <p><i>Failure to provide a reasonable adaptation/accommodation to persons with disabilities in accordance with their specific needs</i></p> <p>Article 10 Promotion and cooperation for the advancement of human rights</p> <p>Article 11 Institutional mechanisms for protection against discrimination in the Ministry and Municipality</p>	<p><i>No discrepancies were identified</i></p> <p><i>Challenges in law enforcement</i></p>	<p><i>No need for changes.</i></p> <p><i>No need for change.</i></p> <p><i>The law is currently under evaluation (ex-post)</i></p>
National and local level	<p>ADMINISTRATIVE INSTRUCTION -No. 33/2007 ON CONSTRUCTION BUILDINGS TECHNICAL TERMS OF ACCESSIBILITY FOR PERSONS WITH DISABILITIES.</p>	<p>Article 5 Scope - public and administrative construction objects and residential and residential-business construction objects.</p> <p>Article 6 Conditions for the use of aids</p> <p>Article 7 Mandatory elements for access</p> <p>Article 8 The tactile paving</p> <p>Article 9 Elements for access at different levels</p>	<p><i>It has addressed access more than any other legal act, however, it is limited in scope by Article 5</i></p> <p><i>There are also provisions for the rest of the infrastructural part, but it actually</i></p>	<p><i>It should be transformed into a law or the specific areas of this sector should be included in the legislation that deals with each area separately</i></p> <p><i>Law on addressing access to the physical environment</i></p> <p><i>Law on addressing access to public</i></p>

	<p><i>(Repealed with the decision of GRK, No. 02/50 of the date 23.12.2021) – (remains applicable with the decision of the GRK, No. 05/56 of the date 26.01.2022</i></p> <p>https://gzk.rks-gov.net/ActDetail.aspx?ActID=7480</p>	<p><i>Article 15 Accessibility elements for independent living</i></p> <p><i>Article 44 Mandatory realization of elements for access</i></p> <p><i>Article 51 Modernization of approaches to construction objects</i></p> <p><i>Article 54 Mandatory content of the project</i></p> <p><i>Article 36 Elements for access to public transport</i></p> <p><i>Article 35 Orientation plan for movement in buildings</i></p> <p><i>Article 5 Public and administrative construction facilities are</i></p> <p><i>APPENDIX – presentation of photos with accessibility signs for the conditions of use of the auxiliary elements for access</i></p>	<p><i>remains in the function of the scope</i></p> <p><i>It is limited on the basis of the construction law, which greatly reduces the scope of requirements</i></p> <p><i>Provisions are not well organized</i></p>	<p><i>transport</i></p> <p><i>Law on addressing access to information, communication, media, internet and ICT</i></p> <p><i>Law on addressing access to public services</i></p> <p><i>Legal act for the application of Universal Design Principles for all accessibility areas (universal use and universal design)</i></p>
<i>National and local level</i>	<p>GRK REGULATION No. 15/2014 FOR THE PROVISION OF THE SERVICES IN THE SIGN LANGUAGE</p> <p>https://gzk.rks-gov.net/ActDetail.aspx?ActID=7480</p>	<p><i>Article 2 Scope for all public institutions of the Republic of Kosovo, at the central and local level.</i></p> <p><i>Article 4 Coordination in the provision of services in sign language</i></p> <p><i>Article 6 Procedure for providing services in sign language for deaf people</i></p> <p><i>Article 7 Procedure for providing service in sign language for public institutions</i></p> <p><i>Article 8 Financing</i></p> <p><i>Article 9 Training and certification</i></p> <p><i>Article 17 Publication and information</i></p> <p><i>Article 19: The responsibility for implementing the regulation falls on the OGG</i></p>	<p><i>There is no</i></p>	<p><i>It should be converted into the Law on Sign Language and the Provision of Sign Language Services</i></p>
<i>National Level</i>	<p>NATIONAL STRATEGY FOR THE RIGHTS OF PERSONS WITH DISABILITIES 2013–2023</p>	<p><i>New strategy in drafting process</i></p>	<p><i>NA</i></p>	<p><i>NA</i></p>

Participation in the public and political life

<i>Level of governance</i>	<i>Applicable Law/ regulation (including the Constitution and other acts: strategies, policies, guidelines)</i>	<i>The solutions provided in the legislation</i>	<i>Non-compliance with the obligations stipulated by the relevant article of the UN Convention</i>	<i>Required changes/ necessary to ensure compatibility</i>

<p><i>National level</i></p>	<p>CONSTITUTION OF THE REPUBLIC OF KOSOVO</p>	<p>Article 44 Freedom of Association Freedom to participate in an organization and freedom to establish an organization</p> <p>Article 45 Electoral and Participation Rights Guaranteeing the freedom to choose and be chosen. Guaranteeing the equality, freedom and secrecy of the vote. Guaranteeing participation in public activities and the right of everyone to democratically influence the decisions of public bodies.</p>	<p>N/a</p>	<p>CRPD should be incorporated in the Article 22 of the Constitution of the Republic of Kosovo</p>
<p><i>National level</i></p>	<p>LAW Nr. 08/L-228 FOR GENERAL ELECTIONS IN REPUBLIC OF KOSOVO https://gzk.rks-gov.net/ActDetail.aspx?ActID=2544</p>	<p>Article 4 Basic Principles Equality in exercising the right to vote without discrimination</p> <p>Article 3 Definitions For Voting of Persons with Special Needs</p>	<p>It has considered relatively well the right to choose and to be chosen</p> <p>Some aspects of the law have not been fully implemented, e.g.</p>	<p>Adjusting appropriate terminology for the definition of disabled persons</p> <p>Amendment/supplementation of the Law on political parties - for the inclusion of affirmative actions related to the participation of PWDs in electoral lists</p>
		<p>Article 59 CEC Authority for the management of the electoral process</p> <p>Article 83 Polling Locations and Polling Centers Article 89 The right to vote and the secrecy of the vote</p> <p>Article 99 General Provisions, CHAPTER XV/ Voting of Persons with Special Needs</p> <p>Article 107 Informing voters and the media</p> <p>Article 108 Transmission of information to voters</p>	<p>Creating full access without physical barriers for the participation of people with physical disabilities</p>	<p>CEC-Electoral lists a quota for PWD participation</p> <p>Creation of a mechanism for monitoring, evaluating and reporting the inclusion of PWDs in public and political life (perhaps a legal act).</p>
<p><i>Local level</i></p>	<p>LAW No. 03/L-072 FOR LOCAL ELECTIONS IN THE REPUBLIC OF KOSOVO https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2549</p>	<p>Article 3 Basic principles Equality in exercising the right to vote without discrimination Other provisions of the Law on General Elections in the Republic of Kosovo also apply to local elections.</p>	<p>Same as in the Law on General Elections</p>	<p>Same as in the Law on General Elections</p>
	<p>LAW NO. 06/L- 043 FOR THE FREEDOM OF ASSOCIATION IN NGOs</p>	<p>Article 4: Freedom of Association Article 5: [Equal treatment and protection against discrimination]</p>	<p>It addressed the freedom of association in a</p>	<p>Amendment-completion of the current law for the purpose of specifying the character and status of DPOs as NGOs</p>
	<p>https://gzk.rks-gov.net/ActDetail.aspx?ActID=19055</p>		<p>general way</p>	<p>Special law for the financing of DPOs for participation at the regional and international level.</p>

VIII. CONCLUSIONS

The report of analysing the legal framework of Kosovo, in relation to the Convention on the Rights of Persons with Disabilities and the Recommendations of the UN Committees on the rights of persons with disabilities in the field of access ibility and participation in public and political life reflects the current legal situation with which disability issues materialize in Kosovo.

The analysis of the legal framework of Kosovo is focused on the legislation/legal acts which have addressed the research areas in relation to article 9 and 29 of the CRPD and the recommendations of the UN Committee on the rights of persons with disabilities, with a focus especially on the area of access to the public environment, transport, information and communication, ICT and in the field of participation in public and political life in voting and election participation, representation in public institutions, representation at local, national and international levels and association. This analysis includes the context of the current legislative and institutional framework.

The research was focused on the analysis of what the legislation of Kosovo, including the Constitution of Kosovo, provides in relation to the CRPD, the requirements of Article 9 for accessibility and Article 29 for participation in public and political life of persons with disabilities and based on the materialization of these requirements based on the recommendations of the UN Committee on the Rights of Persons with Disabilities in the targeted areas.

Aiming to reach comparative conclusions, the specific legislation that addressed disability according to the type of disability was selected, without excluding that the legal provisions that address disability are also found in other legislation in Kosovo, and that were not subject to this research.

From the performed analysis, it is clear that Kosovo recognizes the right of persons with disabilities to participate actively in public and political life considering that the highest constitutional act, general guarantees have been given for equality and respect for human rights without discrimination also on the basis of disability and on the basis of international standards and European jurisprudence, however the legal situation/other legislations and the actual situation in the implementation of these rights does not create a guarantee of full compliance with the constitutional requirements and does not provide the required standards of the Convention. Because, despite the existence of a legal base which is deficient, the non-implementation of legal provisions in practice, the challenges faced by persons with disabilities do not create optimal conditions for equal participation and without barriers.

Although, there are a number of legal acts that address disability in general and accessibility and participation in public and political life in particular, none of these acts have fully addressed the areas of analysis. And this applies only to the norming part of the areas, as long as the implementation has not been researched, and although the report has some opinion given regarding the implementation. This conclusion emerges from the

comparative analysis, where it was found that although various legal acts have addressed the field of access, none of the legal acts have fully addressed either the physical environment, nor transport, information and communication or public services. The legal provisions in this field are scattered across legal acts, are fragmented and are incomplete to address one component in its entire structure. We find the most concentrated legal provisions in the field of public participation, this is only relevant for the component of participation in voting where there are special legal provisions that refer to the participation of persons with disabilities in the electoral process and legal solutions for this issue, while the rest of this field, such as the representation in public institutions, the representation of persons with disabilities at international, national, regional and local levels, has been addressed little or not at all in the legal provisions, while freedom of the association has been treated in general without defining disability.

Whereas, the institutional cadres for addressing specific areas of disability is built on the basis of the authorities established under the specific law of the area and is more declarative than operational. With the exception of CPWD at the central level and the Consultative Committees at the local level which deal with the advancement of policies in the field of disability and in special cases with the monitoring and implementation of legislation in the field of disability, in other institutions disability is part of the portfolio among other responsibilities

Although, in recent years as a result of the continuous advocacy of OPDs and especially in the Year 2022, which has been designated as the Year of Persons with Disabilities, more tangible efforts have been seen to address areas of interest to disability, however efforts are not structured to address disability in general and accessibility and participation in particular are addressed little or not at all or only adhoc.

From the findings we can conclude that the current legislation in Kosovo is not in harmony with the UN Convention, neither formally nor materially, so it is recommended that the institutions of Kosovo in the shortest possible time, review the entire legislative framework of the disability and harmonize it with the required standards of CRPD, starting with addressing accessibility policies as prerequisites for effective participation in public life and the implementation of other rights for persons with disabilities. A structural review of the entire legal infrastructure (legislative and institutional framework), preceded by an assessment analysis from a national assessment system for disability standards, is necessary for the purpose of compliance and harmonization with the CRPD.

A package of specific recommendations for each area of intervention will be prepared during the advocacy process for this report.

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