

IMPLEMENTATION OF THE INTERNATIONAL HUMAN RIGHTS TREATIES NAMED IN THE CONSTITUTION OF KOSOVO

A Discussion Paper

ECMI Kosovo

November, 2018



Acknowledgements

Members of the Coalition would like to thank the interviewees from the different institutions and organizations for their willingness to participate and provide invaluable information and data for this report.

Lead NGO for publishing the Report

ECMI Kosova (www.ecmikosovo.org)

ECMI Kosovo is the principal non-governmental organisation engaged with minority issues in Kosovo, with the overarching aim to develop inclusive, representative, community-sensitive institutions that support a stable multi-ethnic Kosovo. ECMI Kosovo contributes to the developing, strengthening and implementation of relevant legislation, supports the institutionalisation of communities-related governmental bodies, and enhances the capacity of civil society actors and the government to engage with one another in a constructive and sustainable way.

**Str. Nëna Terezë No. 20, Apt. 5,
10000 Prishtina – Kosovo,
Tel. +381 (0) 38 224 473**

**Str. Kralja Petra 183a
38220 Mitrovica/Mitrovicë North, Kosovo**

Equal Rights for All Coalition

ERAC brings together seven (7) NGOs that work in the domain of *rule of law* and *fundamental rights* that will work together with an additional **nineteen (19) grass root NGOs**, with a particular focus on the establishment of a sustainable network of NGOs that are active in the protection and promotion of the fundamental rights of vulnerable and/or marginalised groups. The project's special focus are the following groups: **all minority communities** in Kosovo, **women, youth** and **LGBT community**. Although working on similar topics and issues, these NGOs are often divided on the basis of the particular target groups they are working with or the region they are active in. By establishing structural cooperation between selected NGOs and providing formal opportunities for continuous learning, the action generates the sharing of knowledge and experience between NGOs, strengthens their capacities for advocacy with relevant central and municipal institutions, and increases their visibility.

ERAC members are the following organisations:

- European Centre for Minority Issues Kosovo – leader of the Coalition;
- Centre for Social Group Development – member of the Coalition;
- Centre for Equality and Liberty for the LGBT Community in Kosovo – member of the Coalition;
- Kosovo Center for Gender Studies – member of the Coalition;
- Youth Initiative for Human Rights – member of the Coalition;
- Kosovo Glocal – member of the Coalition;
- Centre for Legal Aid and Regional Development – member of the Coalition.

Disclaimer

This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of ECMI Kosovo and can in no way be taken to reflect the views of the European Union.

Copyright

© Equal Rights for All Coalition (ERAC), July 2018. All rights reserved. No part of this publication may be reproduced, stored in retrieval system or transmitted in any form or by any means, electronic, mechanical, photo-copying, recording or otherwise, without the prior permission of ERAC.



IMPLEMENTATION OF THE INTERNATIONAL HUMAN RIGHTS TREATIES NAMED IN THE CONSTITUTION OF KOSOVO

A Discussion Paper



European
Union
Kosovo

CONTENTS

INTRODUCTION.....	7
CHAPTER 1.....	8
Kosovo’s Relationship with International Human Rights Law.....	8
The IHRTs named in the Constitution.....	8
CHAPTER 2.....	12
The Difficulties of Direct Implementation.....	12
Implementation of the IHRTs in Kosovo.....	14
Lack of Expertise in International Law.....	15
Deficiencies in Capacity and Transparency.....	17
CONCLUDING REMARKS.....	20
REFERENCES.....	22

LIST OF ACRONYMS AND ABBREVIATIONS

Aoj	Academy of Justice
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CoE	Council of Europe
CTP	Continuous Training Program
ECHR	European Convention on Human Rights
ECMI Kosovo	European Centre for Minority Issues Kosovo
ECRML	European Charter for Regional or Minority Languages
ECtHR	European Court of Human Rights
ERAC	Equal Rights for All Coalition
EU	European Union
FCNM	Council of Europe Framework Convention for the Protection of National Minorities
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICERD	Convention on the Elimination of All Forms of Racial Discrimination
IHRTs	International Human Rights Treaties
KFOR	Kosovo Force
KJC	Kosovo Judicial Council
NGOs	Non-Governmental Organizations
NPM	National Preventive Mechanism against Torture
OI	Ombudsperson Institution
OSCE	Organization for Security and Cooperation in Europe
PISG	Provisional Institutions of Self-Government
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCAT	Convention Against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment
UNCRC	Convention on the Rights of the Child
UNDP	United Nations Development Programme
UNMIK	United Nations Interim Administration Mission in Kosovo

INTRODUCTION

Both under international administration 1999-2008 and since the declaration of independence in 2008, Kosovo has made considerable progress in the consolidation of human rights. In particular, Kosovo has received international praise for its extensive legal framework regarding the protection of rights of marginalized groups and other minority communities. However, as in many areas of Kosovar law, a huge discrepancy between legislation and implementation still exists. Even though the human rights laws named in the Kosovo Constitution are well drafted, the majority are yet to be implemented properly. Some examples include Article 59 on the Rights of the Kosovo's Communities and their Members, and, critically for this paper, Article 22 providing for the direct applicability of International Human Rights Agreements. Particularly the Law on Anti-Discrimination and the Law on the Use of Languages are perceived as advanced laws, but even though these laws seem to be effective from an outside perspective, the ineffectiveness of implementation mechanisms makes them inaccessible to Kosovo's minority communities.¹

Ineffective implementation of laws in Kosovo can particularly be seen when referring to legislation with a basis in international law. Because Kosovo is not part of the United Nations and the European Union (EU), it is not a signatory to all their laws and conventions. However, Article 22, 53 and 58 of the Kosovo Constitution name eight International Human Right Treaties (IHRTs) which are directly applicable in Kosovo and, in the case of conflict, even have priority over provisions of laws and other acts of public institutions. This report will analyse the implementation of these treaties within the judicial system of Kosovo. Interviews with high level legal experts were conducted in order to seek an answer to this broad research question. The paper will first explain Kosovo's legal relationship with international law, particularly international human rights law. Subsequently, the difficulties of directly implementing such laws will be discussed; the report will also consider other factors hindering the implementation of these treaties within Kosovo particularly. The report will then provide some conclusions on the basis of the analysis provided. This report's primary aim is to provide a discussion of the issues surrounding the implementation of the International Human Rights Treaties named in the constitution of Kosovo, with the hope of fostering further debate. Undoubtedly, Kosovo's constitutional commitment to human rights is commendable; however, as with many other areas of Kosovo's law, the written substance of the law is not matched by its factual implementation. In the short-term, improved discussion and consideration of how to better implement the domesticated international human rights treaties is to be encouraged. In the long term, it is hoped that the continued progression of Kosovo towards undisputed statehood and subsequent membership of the Council of Europe and the United Nations allows for it to become a signatory party to such treaties, leading to a fully effective implementation.

¹ Adem Beha, 'Minority Rights: An Opportunity for Adjustment of Ethnic Relations in Kosovo?', *Journal on Ethnopolitics and Minority Issues in Europe* 13 (2014) 98.

CHAPTER 1

Kosovo's Relationship with International Human Rights Law

Despite an ostensible commitment to human rights by Kosovo, the protection of the rights of individuals across the country remains insufficient: The 2018 edition of the Human Rights Watch World Report states that Kosovo has made slow progress on human rights in 2017. The protection of citizens' rights and freedoms in the governing system and constitution has been one of the main goals of the international community's presence. The Constitution of Kosovo, developed in accordance with the Ahtisaari Plan, provides extensive protections for human rights, including minority rights. One of the key ways in which this is achieved is through reference to existing international legal instruments. On the one hand, this can be seen as a legacy of the period of international administration 1999-2008, when United Nations Interim Administration Mission in Kosovo (UNMIK) gave a privileged position to international laws and "cultivated a legal culture of applying international legal norms in Kosovo".² On the other hand, including reference to international treaties in the constitution was an effective way to make the documents legally binding in Kosovo despite the fact that, with limited international recognition of statehood, Kosovo is not always able to formally accede to multilateral international agreements.³

The integration of international instruments in the Kosovo constitution has been an important step in order to protect human rights domestically.⁴ These instruments have been directly institutionalized within the framework of the constitution itself. Articles 22, 53 and 58 incorporate a number of international human rights agreements and instruments, namely the Universal Declaration of Human Rights (UDHR), the European Convention on Human Rights and Freedoms and its Protocols (ECHR), the International Covenant on Civil and Political Rights and its Protocols (ICCPR), the Council of Europe Framework Convention for the Protection of National Minorities (FCNM), and the UN Conventions on the Elimination of All Forms of Racial Discrimination (ICERD), the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (UNCAT). However, as Kosovo is a member of neither the United Nations nor the European Union, these international instruments are not always applicable and citizens cannot file complaints at relevant bodies.⁵ The following section will provide an outline of such treaties and their use within Kosovo.

The IHRTs named in the Constitution

Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR), which was adopted by the UN General Assembly in 1948, consists of thirty articles listing rights that are fundamental to all human beings. In its preamble, it describes itself as "a common standard of achievement for all peoples and all nations" towards which "every individual and every organ of society...shall strive".

² V. Morina, Korenica, F. and Doli, D., 'The relationship between international law and national law in the case of Kosovo: A constitutional perspective', *International Journal of Constitutional Law* 9 (2011) pp. 274-296.

³ *Ibidem*.

⁴ Paul de Hert & Fisnik Korenica, 'The New Kosovo Constitution and Its Relationship with the European Convention on Human Rights: Constitutionalization "Without" Ratification in Post-Conflict Societies', *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 76 (2016) 144-145.

⁵ *Ibidem*.

However, the Declaration does not have treaty status and was never intended to have legally binding effects upon states.⁶ Rather, the UDHR's purpose was to define the terms "fundamental freedoms" and "human rights" that are used in the UN Charter, which itself is legally binding upon all UN member states.⁷ In other words, it was merely intended as an aspirational and inspirational political declaration. The Declaration precludes direct applicability, because it specifies that it should be realized through implementing domestic legislation. However, many scholars and courts alike have argued that at least part of the UDHR has in the years since its adoption become customary international law, although this view is by no means universal.⁸ In some countries, the Declaration's use as customary law has been limited to interpretation of domestic law or international treaties, but in others, parts of it have been applied directly.⁹

European Convention on Human Rights (ECHR)

The European Convention on Human Rights is a far-reaching treaty intended to protect human rights and political freedoms across Europe. All member states of the Council of Europe are party to the ECHR. The Convention also established the European Court of Human Rights (ECtHR), which allows any individual who believes their rights have been violated to take a case to the Court in Strasbourg.

Kosovo's implementation of the ECHR supports international observers' claims that Kosovo has built a European style legal system. With the ECHR serving as the embodiment of constitutional human rights in Kosovo, the new polity's state building efforts will be influenced from a more European system of rights. Persons in Kosovo, through Article 22.2, can claim rights and freedoms from the Convention as constitutional rights and freedoms, which Kosovo's Constitutional Court has also explicitly affirmed.¹⁰ This claim, however, cannot be extended to include the case-law of the European Court of Human Rights (ECtHR). Kosovo's Constitution compels Kosovo's institutions, including its courts, to use the case-law of the ECtHR as a basis for the interpretation of constitutional human rights and freedoms. However, the case-law is not directly effective within Kosovo's legal system. Kosovar citizens may also not bring a case before Strasbourg if they feel that their rights have been violated by the State. Nonetheless, a person can claim that a domestic court's interpretation of a right or freedom has violated the Constitution if the decision did not include a review of the explicit content of the ECtHR case-law.¹¹

International Covenant on Civil and Political Rights (ICCPR)

The ICCPR commits parties to respecting the civil and political rights of individuals, including inter alia the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and fair trial. The ICCPR reporting system can be regarded as an accountability mechanism through which a UN organ gives an account of its human rights protection vis-à-vis the other organs of the UN, all UN member states, host states and the global public.¹² The Human Rights Council ("HRC") decided to request submission of reports by UNMIK

⁶ R. B., Lillich, 'Invoking International Human Rights Law in Domestic Courts', *University of Cincinnati Law Review* 54 (1985) 367 – 415.

⁷ *Ibidem*.

⁸ *Ibidem* and Hannum H. 1995. The status of the Universal Declaration of Human Rights in national and international law. *Georgia Journal of International and Comparative Law* 25, pp. 287-397.

⁹ H. Hannum, 'The status of the Universal Declaration of Human Rights in national and international law', *Georgia Journal of International and Comparative Law* 25 (1995) 287 – 397.

¹⁰ Fisnik Korenica & Dren Doli, 'Taking Care of Strasbourg: The Status of the European Convention on Human Rights and the Case-Law of the European Court of Human Rights in Kosovo's Domestic Legal System', *Liverpool Law Review* 32 (2011) 216.

¹¹ *Ibidem*, 221.

¹² Erika Nakamura, 'Monitoring accountability for UN peacekeeping under ICCPR', *Nordic journal of international law* 86 (2017) 348.

under Article 40 of the ICCPR during its 81st Session in July 2004. Subsequently, the HRC has made recommendations to authorities in Kosovo at the relevant time, including UNMIK, the Kosovo Force (KFOR) and the Provisional Institutions of Self-government (PISG). Regarding follow-ups to the Concluding Observation of 2006, UNMIK was requested to keep the HRC informed of three issues: serious crimes, such as war crimes, crimes against humanity and ethnically motivated crimes; disappearances and abductions, and measures taken to address them; and the return of displaced persons and remedies for them. The Committee expressed concerns over the implementation of Articles 2(3), 6 and 7 of the ICCPR. In response, UNMIK identified a department responsible for prosecution of these crimes and gave examples of such cases.¹³

The First Optional Protocol to the ICCPR, adopted by the UN General Assembly in 1966, establishes an individual complaint mechanism allowing individuals who feel their rights are violated to bring complaints to the UN Human rights Committee. This has 116 state parties, including almost every European state bar Switzerland and the United Kingdom. Kosovo, not being a UN member state, is unable to be party to this protocol.

Council of Europe Framework Convention for the Protection of National Minorities (FCNM)

The FCNM aims to promote the full and effective equality of people belonging to national minorities in all areas of economic, social, political and cultural life, together with conditions that will allow them to express, preserve and develop their culture and identity. Kosovo is subject to a specific monitoring arrangement with regard to the FCNM, signed between UNMIK and the Council of Europe (CoE). Every five years, UNMIK delivers a report which is reviewed by an independent commission, after which a resolution is adopted containing conclusions and recommendations to Kosovo concerning the implementation of the FCNM.¹⁴ The influence of the FCNM is very visible in the Law on the Promotion and Protection of the Rights of Communities and their Members in Kosovo. Many of the articles are formulated along the lines of the FCNM or copy the wording literally. This is particularly true for the provisions on identity (Art.2), culture (Art.3) and language (Art.4).¹⁵

Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Kosovo's 'Law on Gender Equality', adopted in 2015, states in Article 1 that it is in accordance with CEDAW. In addition, the 'Anti-Discrimination Law', which was adopted in February 2004, can be regarded as quite advanced and similar to the ICERD. Its scope is considered 'extremely wide' since it prohibits not only direct but also indirect discrimination.¹⁶

Convention on the Rights of the Child (UNCRC)

The UN Convention on the Rights of the Child contains 54 articles detailing all aspects of a child's life, setting out the civil, political, economic, social and cultural rights that all children everywhere are entitled to. Compliance is monitored by the UN Committee on the Rights of the Child, which is composed of members from countries around the world. The Committee submits an annual report to the Third Committee of the United Nations General assembly, who adopts a Resolution on this basis.

¹³ Ibidem, 352.

¹⁴ European Center for Minority Issues (ECMI) Kosovo, *Communities in Kosovo: A guidebook for professionals working with communities in Kosovo* (Pristina 2013) 65.

¹⁵ Emma Lantscher, 'Protection of Minority Communities in Kosovo: Legally Ahead of European Standards – Practically still a Long Way to Go', *Review of Central and East European Law* 33 (2008) 456.

¹⁶ Emma Lantscher, 'Protection of Minority Communities in Kosovo', 458.

Convention Against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (UNCAT)

The main purpose of UNCAT is to forbid the use of torture and similar acts; the Convention also places an obligation on state parties to prevent transportation of individuals to any place where they are likely to be tortured. The vast majority of the treaty's provisions are sufficiently precise to be directly applicable in Kosovo. The Law on Ombudsperson, adopted in 2015, foresees the establishment of a specific mechanism within the Ombudsperson Institution, which accomplishes all functions of a National Preventive Mechanism against Torture (NPM).¹⁷ The NPM functions in accordance with the principles of UNCAT.

European Charter for Regional or Minority Languages (ECRML)

The ECRML was signed in 1992 under the auspices of the COE, in order to promote and protect minority and regional European languages. The document considers that the promotion of minority languages and cultures should be seen as a tool for promoting mutual understanding among communities, rather than as a one-sided defence of minorities against the majority. The Charter states that "every person belonging to a national minority has the right to use freely and without interference his or her minority language."¹⁸ The right to education in one's minority language, and the use thereof, can be seen as a springboard towards a fuller, more meaningful participation of both majority and minority communities. Therefore, the responsibility of Kosovo authorities should not be a vague promotion of minority languages, but a thorough respect for such languages in their relations with the population.¹⁹

¹⁷ Ombudsperson Institution of Kosovo, First Annual Report of National Preventive Mechanism against Torture (Pristina 2017) 6.

¹⁸ Council of Europe, European Charter for Regional or Minority Languages (Strasbourg 1992) Article 10.1.

¹⁹ ECMI Kosovo, *Communities in Kosovo*, 66.

The Difficulties of Direct Implementation

Undoubtedly, Kosovo's constitutional commitment to human rights is admirable and Article 22's granting of direct application to the eight relevant international agreements and instruments evidences a real dedication (at least on paper). However, notwithstanding the overtly positive intentions surrounding the domestication of the eight international human rights treaties, it cannot be overlooked that this direct implementation does not mirror the legal framework these treaties lay out for actual state parties. This brings inherent problems, as it the purpose of such treaties is to create "not merely contingent rights conferred by the goodwill of sovereign states" but rather "inherent and inalienable rights which...are no longer at the disposal of states, but form part of international law giving rights and entitlements directly to individuals".²⁰ Whilst Article 22 does create an external system of rights and entitlements of sorts by giving prioritised binding effect to a large range of rights concluded in the international sphere, this is somewhat undermined by the fact that these right will be solely interpreted by domestic judges. This means the crucial justification for international human rights treaties – the external accountability of the state – is unfulfilled.

The inherent difficulties of directly integrating IHRTs into the domestic framework has been evidenced numerous times in Kosovo. This is particularly the case regarding Kosovo's constitutional relationship with the European Convention on Human Rights. The latter is a hugely significant and far-reaching document for protecting human rights within Europe. Signed in the post-war context in 1950, it is clear that the document was intended to prevent the oppression of individuals and groups by tyrannical states by providing them with an external court which could legally bind the latter. This was realised through the mechanism of the European Court of Human Rights. The major Constitutional Court cases concerning the use of ECtHR case-law are the 2009 cases of *Ibrahimi et al. v. Supreme Court*²¹ and *Kastrati v. Supreme Court*²² and the 2010 decision in *Bislimi v. MI et al.*²³ An analysis of these cases reveals a consistent pattern of interpretation of Article 53 of the Constitution by the Court. Article 53 states that "Human rights and fundamental freedoms guaranteed by this Constitution shall be interpreted consistent with the court decisions of the European Court of Human Rights". In *Ibrahimi*, the Constitutional Court accepted its obligation to refer to the ECtHR case-law, but did not find itself obliged to follow ECtHR rulings (although it did so for the purpose of clarifying a constitutional provision and used such clarification as a means to rationalize the course of reasoning that it followed). The same line of reasoning can also be detected in *Kastrati*, where the Court followed an approach, once again, to demonstrate that it was obliged to refer to ECtHR case-law constitutionally, but indeed was not bound by its rulings. In the 2010 *Bislimi* case, the Constitutional Court went further and did in fact use ECtHR case-law to qualify the facts and to determine the merits of the case. However, its reasoning indicates that it did not do so out of duty – the Court did not consider itself obliged to base its ruling on ECtHR case-law.²⁴

²⁰ August Reinisch, 'The Changing international Legal Framework for Dealing with Non-State Actors', in: Philip Alston ed. *Non-State Actors and Human Rights* (Collected Courses of the Academy of European law 2005) 38

²¹ *Ibrahimi and 48 other former employees of the Kosovo Energy Corporation v. the Supreme Court of Kosovo*, KI 40/09, 2009, Constitutional Court of Kosovo

²² *Kastrati v. Supreme Court*, KI 68/09, 2009, Constitutional Court of Kosovo

²³ *Bislimi v. MI et al.*, KI 06/10, 2010, Constitutional Court of Kosovo

²⁴ Paul de Hert, 'The New Kosovo Constitution', 161.

All three cases therefore suggest an inclination on the part of the Court that the ECtHR case-law is to be viewed as a tool for advancing the interpretation of constitutional provisions, rather than as an obligation requiring adherence to ECtHR precedents. Critically, the Constitutional Court is unable to process the entirety of ECtHR jurisprudence, and therefore only reviews a section of its case-law; this is insufficient for a determination of the true nature of ECtHR law and for a correct result based on its application to the facts.²⁵ This effectively means that Kosovo's human rights law cannot be considered to reflect the jurisprudential quality of that of the ECtHR's. Practically speaking, this undermines human rights in the country and can lead to non-remedied violations of individuals' rights.

Another issue with direct incorporation of IHRTs is the underestimation of action necessary to fully implement these treaties. With regards to the ICERD, in practice little progress has been achieved in implementing anti-discrimination legislation in Kosovo. According to a European Commission report, 'more often than not, people are unaware of the meaning of concepts such "indirect discrimination" or "affirmative measures" and are not able to identify discrimination as such. Moreover, executive authorities are not always able to apply those concepts in practice, even if they know in theory what those concepts mean.'²⁶ The Ombudsperson Institution could play a role in the implementation of this law, but their strength is limited. According to scholar Emma Lantscher, it seems clear that the legislative framework is advanced but that practical implementation lags far behind. The main problem in Kosovo with this law is the lack of public information, a lack of internalization of its principles and the lack of political will to prioritize the implementation of the law.²⁷

The problem of implementation is also the most pending issue regarding the effectiveness of the UNCRC in Kosovo. According to Childpact, the right legal framework is in place to protect children's rights but this legal framework only exists on paper. The relevant legislation is distributed across several laws, sub-legal acts and different policies, given that Kosovo does not have a special law on the rights of the child yet. This fragmentation of laws that regulate issues affecting the life and well-being of children is seen as a legal shortcoming, since the absence of a comprehensive and full law leaves children in a sensitive situation and legal insecurity. In order to address this problem, in 2013 it was commenced with the drafting of the Draft Law on Child Protection. Even during this year, the Draft Law failed to be adopted in the Assembly.²⁸ Child trafficking and child labor are two high priority issues which require more action from the Kosovo Government. With the Child Protection Index 2.0, which was launched in January 2018, independent NGOs Childpact and World Vision are constantly monitoring Kosovo's progress in this regard. The Council for Protection and Justice for Children, the Kosovo Committee for Prevention and Elimination of Child Labor and the National Authority against Trafficking in Human Beings have to operationalized and strengthened. However, it is fair to say that the Kosovo government has significantly prioritized its efforts to create the adequate legislation regarding juvenile justice at the policy level.²⁹

²⁵ Ibidem, 162.

²⁶ Ibidem, 460.

²⁷ Ibidem, 461.

²⁸ Ombudsperson Institution of Kosovo, Annual Report 2017 (Pristina 2018) 54.

²⁹ N.N., 'Children's rights in Kosovo must not exist only on paper', website ChildPact, 19 April 2017, <http://www.childpact.org/2017/04/19/3811/>.

Another problem with direct implementation under the Constitution is that this often fails to take into account the need for further action and refinement on the part of the state adopting the treaty. For example, a significant problem with the FCNM being implemented in Kosovo in any way is that the Convention never defines the term “national minority”.³⁰ It would appear fairly self-evident that in Kosovo the term “national minority” should be synonymous with the term “community” as defined in the 2011 amendment to the Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo.³¹ However, as the term “national minority” is never used in Kosovar legislation, it would be necessary for some official clarification of this equivalency. This would follow the example of countries like the United Kingdom, which specified when ratifying the FCNM that “national minorities” would be understood to refer to “racial groups” as defined in Section 3(1) of the Race Relations Act 1976 and then subsequently announced the addition of the Cornish to the category.³² In a similar vein, whilst the ECRML contains some provisions that are mandatory for all parties (found in Part II), the main bulk of the agreement (Part III) consists of over 100 measures, of which parties are only obliged to choose a minimum of 35 to implement. The Charter was designed in this way to create maximum flexibility, allowing states to pick and choose measures that fit the circumstances of their particular minority languages. As such, when states have acceded to the treaty, they have specified which clauses they will apply to which languages, often applying different sets of measures to each language in their territory.³³ As Kosovo’s constitution does not mention any specific clauses of the Charter or specify to which languages the Charter applies, it is unclear in what way the Charter could be considered part of Kosovo’s domestic legal framework. This is another illustration of the difficulties with Kosovo’s Constitutional commitment under Article 22 to directly apply eight IHRTs without more clarification on the nature of this, particularly with regard to the purposes and idiosyncrasies of each document.

Implementation of the IHRTs in Kosovo

Most of the IHRTs are incorporated in either other Articles of the Constitution of Kosovo or in separate domestic laws. However, this does not mean the implementation of these treaties is sufficient or that legislation is clear. The Ombudsperson Institution (OI) noted that when taking a decision, courts rarely refer to these treaties. Even when this does happen the references are generalized and are not concrete in relation to the circumstances of the case at work.³⁴ Thanks to interviews ECMI has conducted with several high-level experts, such as the Ombudsperson and UNDP, as well as with law students, the law faculty of the University of Pristina, lawyers and representatives from civil society, and also the Constitutional Court and the Academy of Justice, two primary reasons for inefficiency within the present judicial system have been identified. These are a lack of expertise regarding the nature of international laws, and deficiencies of capacity and transparency within the judicial system.

³⁰ Kinga Gál, ‘The Council of Europe framework convention for the protection of national minorities and its impact on central and eastern Europe’, *Journal on Ethnopolitics and Minority Issues in Europe* 1 (2000) 1 – 17.

³¹ “For the purposes of this law, communities are defined as national, ethnic, cultural, linguistic or religious groups traditionally present in Kosovo that are not in the majority. These groups are Serb, Turkish, Bosnian, Roma, Ashkali, Egyptian, Gorani, Montenegrin, Croatian communities and other communities.”

³² Cahal Milmo, ‘Cornish to be recognised as a national minority along with Scots, Welsh and Irish’, website *The Independent*, 23-04-2014, <http://www.independent.co.uk/news/uk/politics/cornish-people-formally-declared-a-national-minority-along-with-scots-welsh-and-irish-9278725.html>.

³³ Mairead Nic Craith, ‘Facilitating or Generating Linguistic Diversity: The European Charter for Regional or Minority Languages’, in: Gabrielle Hogan-Brun & Stefan Wolff ed., *Minority languages in Europe. Frameworks, Status, Prospects* (London 2003) 56-72.

³⁴ Ombudsperson Institution of Kosovo, *Annual Report 2017* (Pristina 2018) 26.

Lack of Expertise in International Law

A lack of expert knowledge regarding international law within the judicial system and, further, Kosovo's legal community as a whole is a huge barrier to the effective implementation of human rights in the country. Laura Dickinson has observed that "even when local courts are authorized under domestic law to apply international humanitarian law, there is often such a limited base of familiarity with the norms in question that such authority is meaningless".³⁵ More recently, the Group for Legal and Political Studies has noted that although these international human rights instruments are enshrined in the Constitution of Kosovo, they remain unused.³⁶ As such, it is necessary for Kosovar judges and lawyers to familiarize themselves with the full extent and implications of human rights provisions in the Constitution. This is especially vital considering the declining role of foreign judges in Kosovo's legal system and the fact that Kosovars currently cannot access complaint and enforcement mechanisms such as the European Court of Human Rights (ECtHR) and the various UN committees. Furthermore, the population in general needs to be better informed of its human rights, especially in areas where serious problems persist. Particular effort should be made to ensure that members of marginalized ethnic minorities are informed of their rights as Kosovar citizens.³⁷

Citizens should be better informed about the legal rights that the IHRTs guarantee them. Special attention should be given to increase awareness of the existence of the treaties and how they can be used in court. Provisions of the IHRTs that are not directly applicable in Kosovo³⁸ should be realized through implementing the mechanisms of the treaties into local legislation. After conducting several qualitative interviews with the above mentioned high level legal experts representing several important institutions, it may be considered that there are three main components with regard to the lack of expertise, which can all be linked in turn to the nature of Kosovo's legal education.

Academy of Justice

In February 2017 the Kosovo Judicial Institute was transformed into the Academy of Justice. The Academy is responsible for the training of judges, prosecutors and the administrative staff of courts in Kosovo. Each year, the programme of the Academy is developed by discussing what the needs are and what its specific focus will be. These discussions are being done with several interlocutors, such as judges, the respective courts and other stakeholders. Reports like the European Commission's Kosovo progress report are also taken into account if there are any recommendations. For 2018, there are four specific trainings within the Academy's Continuous Training Program (CTP) focusing on international law, namely Articles 2, 5, 6 and 8 of the ECHR. However, this does not mean these are the only articles that are being taught. According to the Academy of Justice, international laws are being taken into account and integrated in several trainings on more specific and practical cases. In 2017 the CTP focused on Articles 6 and 10, but the Academy does not know if there has been a trend of more focus on international laws in the last few years, since this has not been investigated.

This limited attention to international laws is acknowledged by the Academy itself. Judges grant preference to domestic laws, seeing these as appropriate and sufficient for their judgment, mainly

³⁵ Laura Dickinson, 'The Promise of Hybrid Courts', *American Journal of International Law* 97 (2003) 295 – 310.

³⁶ Group for Legal and Political Studies, *Kosovo's Path to the Council of Europe: Identifying procedures, obstacles and solutions for membership* (Pristina 2013).

³⁷ *Ibidem*.

³⁸ Because of Kosovo not being recognized as an independent state by the EU and the UN.

because, as aforementioned, Kosovo is not a member of the UN and EU and therefore not part of its mechanisms. Whilst the Academy does try to incorporate international laws in their trainings, according to the Ombudsman Institution, it seems practical impact is limited. Judges in Kosovo seldom possess the significant specialist knowledge of international law necessary in order to incorporate IHRTs within their judgments. The only IHRT taught is the ECHR, and this teaching is limited to certain Articles. The argument that the IHRTs are integrated in local legislation is understandable, but this overlooks that the implementation of such legislation is insufficient. Judges are unfamiliar with the context of these laws and do not mention any commentaries of specific cases in their judgments.

Law Faculty of the University of Pristina

The lack of awareness within Kosovo's judicial system on the nature of international law, particularly that which is incorporated into the constitution under Article 22, requires further explanation. This lack of awareness can be considered to reflect a wider unfamiliarity within the Kosovo legal sphere as a whole, which necessitates significant change.

At the University of Pristina, the 'international law' course holds importance from the faculty's perspective: The human rights/international law course is lectured for three hours per week during one semester. The assessments for this course are relatively simple, which leads to a conviction that international and human rights law lacks relative importance; moreover, it means that students have limited knowledge of the subject as a whole. Students have asserted that there is too great a focus on theory rather than practice within the law faculty; in order to truly understand the IHRTs, students should read and analyse cases, such as those of the ECtHR. The faculty acknowledges this problem, but explains an obstacle in that commentaries of the treaties are only provided in English. Furthermore, the faculty as well as the students agree that there is a lack of qualified professors providing sufficient attention to international law. Opportunities for practice and experience should also be extended. Currently around 350 students per year undertake internships with various courts; however, the faculty should provide further opportunities for students to attend court. The UNDP states that professors should increasingly invite judges to their lessons to talk about their experiences.

Another problem plaguing Kosovo's education system is a lack of proper materials regarding the IHRTs and international laws in general. Numerous faculties deal with problems in terms of capacity. According to the faculty, professors give three courses per semester, which should be sufficient to focus on the topics that matter. It is unclear, however, whether teaching staff have separate jobs outside the University at private schools to earn extra money, which would give them less time to do their own research and plan lectures.

Students would like to have more seminars in which they can exchange views on what is and what isn't important, for example a more practical way of teaching. According to the faculty, student demands are being met and there is enough cooperation between the two sides. However, according to students themselves, acceptance into law school is relatively easy; this is not beneficent for overall performance. A smaller number of students would allow for smaller class sizes and optimal teaching. It is fair to say that the University is taking measures in this regard: Over the years they have reduced the amount of law students from 2,000 to 800 and are intending to lower the numbers even more. According to the faculty a more pressing issue is that there are four public universities and at least twenty private schools, which all teach law. There is little cooperation between them, which leads to a lot of law degree students coming to the job market simultaneously.

Language Issues

According to ECMI's interlocutors, Kosovar judges are often uninformed of what exactly international laws entail and therefore avoid using IHRTs in their decisions. Most judges are unable to use commentaries of the treaties which would be a good means to use in court, for example from the Strasbourg Case Laws. This is because most judges in Kosovo, with the exception of the judges of the constitutional court, do not speak English on a satisfactory level to fully understand the documents provided in Articles 22, 53 and 58 of the Constitution. According to the Constitutional Court of Kosovo, translations of the treaties are provided so that English language knowledge is not mandatory. However, although most of these treaties are properly translated in Albanian and Serbian, commentaries are not, which leads to judges having difficulties in presenting these cases.

Deficiencies in Capacity and Transparency

Slow process of reviewing cases

A widespread skepticism regarding the judicial system exists within Kosovo's general population. This stems from the extremely slow processing of cases, which often last for years and experience repeated delays. According to the Ombudsperson's 2017 annual report, citizens continue to face 'delays of procedures for deliberation of their cases for years, non-execution of plenipotentiary court decisions, ineffective decisions, prescription of judicial cases, as well as errors in their personal notes affecting the inability of the realization of their rights ... which has negative impact to the citizens' perception of justice and thus has created mistrust in the judiciary system on the lack of objectivity of judges during the deliberation of their cases.'³⁹ The Kosovo Judicial Council's latest annual report indicated 307,984 cases unresolved at the end of 2017. The number of unresolved cases at the end of 2016 was 399,127, so there has been a significant progress in this regard.⁴⁰ However, waiting times remain extremely high, notwithstanding the time it takes to resolve a case. According to ECMI's interlocutors, in Kosovo it is not uncommon for court cases to last up to an average of 8.5 years, which is not only a very long period of time, but also costs a significant amount of money and is a huge psychological burden for the person filing the case. Complicated bureaucratic procedures and the large backlog of judicial cases has led to numerous individuals being unable to avail themselves of civil remedies for human rights violations.⁴¹ The huge backlog of cases has several dimensions, including a huge amount of law amendments, but also a lack of specialist knowledge regarding certain laws by judges and prosecutors, leading to unsolved cases. As a consequence, cases are passed from Court to Court with no end in sight. Like other independent institutions, the Academy of Justice acknowledges this problem and has organized several round tables and joint meetings on these issues. It will soon publish a report which aims to tackle many of the existing problems and gives an instruction or guideline to judges on how to deal with similar cases that had different outcomes in the past. At present, the lengthiness of proceeding cases is a cyclical problem. As a result of time pressures to solve these cases, judges are not in a comfortable position to train themselves and expand their knowledge of issues such as international human rights law. This is a structural issue which can result in a lower quality content of judgments.

³⁹ Ombudsperson Institution of Kosovo, Annual Report 2017 (Pristina 2018) 26.

⁴⁰ Kosovo Judicial Council, Statistics of the Courts: Annual Report 2017 (Pristina 2018) 3.

⁴¹ USAID, Country Report on Human Rights Practices for 2017: Kosovo (2018) 11.

Capacity Deficiencies

The slow process of reviewing cases is in part a consequence of a lack of legal personnel within Kosovo's judicial institutions. In 2017, there were only 404 active judges and 40 professional collaborators working in the courts.⁴² According to the Ombudsperson Institution, an increase in the number of staff would be highly effective in reducing the number of unsolved court cases.⁴³ For a considerable period, judges are dealing with issues outside of their mandate as a result of this lack of staff. A solution may come from the current Functional Review of the Rule of Law Sector in Kosovo, which is being undertaken by the Ministry of Justice.

The Ministry of Justice, however, lacks capacity to handle such a task on its own and the Judiciary is in desperate need of more legal associates to deal with the backlog of cases. The Ombudsperson and the UNDP both cite the Ministry of Justice's considerable political influence within the Judiciary as inclining towards inefficiency in the latter.⁴⁴ The Ministry currently has a mandate to create policies, which has an influence on the Judiciary. This endangers the separation of powers and, therefore, the independence of the Judiciary has been a problem in seeking sustainable solutions. The administration of justice was slow and lacked means of ensuring accountability by judicial officials. Judicial structures were subject to political interference, with disputed appointments and unclear mandates.⁴⁵ For example, the appointment of 53 new judges in 2016 became controversial after the Kosovo Judicial Council, back then the institution responsible for the appointment of judges, lowered the requirements mid-process for new judges and later reversed the change, affecting 75 candidates that had first passed the qualifying tests.⁴⁶

Cooperation Issues

According to the Ombudsperson there should be a working group consisting of legal experts, working within the judiciary, in the field and relevant institutions in order to make the Functional Review work. Such a working group should be allowed sufficient time to come up with long term, sustainable and directly applicable solutions for the judiciary system. The Ombudsperson stated that no professional staff are appointed in order to carry out this important Review; therefore, the institution itself was unwilling to provide their cooperation. However, the University of Pristina stated that they are part of the Review and that professors are often invited to give their opinion and to be part of certain working groups. In addition, UNDP stated that the high competency of the Ombudsperson Institution would be highly beneficial to make the Review a success. It is therefore unfortunate that the Ombudsperson does not want to cooperate with the Ministry of Justice.

Unfortunately, the unwillingness of the Ombudsperson to work with the Ministry of Justice is not the cooperation issue evident within Kosovo's justice system. For example, the University of Kosovo has a good cooperation when it comes to inviting judges to give lectures to students. But, conversely, interest on the part of judges to talk with professors on how policy should be formulated is not reciprocated. According to the University, the cooperation between the Faculty of Law and the Academy of Justice also proves unproductive. The Faculty of Law emphasizes the importance of international laws, but the Academy fails to convey to judges how important these laws are. There is some cooperation between the University and the Academy, but the University seems to be more committed to this; the Academy mainly listens to what the judges

⁴² Ombudsperson Institution of Kosovo, Annual Report 2017 (Pristina 2018) 26.

⁴³ Ibidem.

⁴⁴ Interviews with UNDP and Ombudsperson Institution of Kosovo, 2018

⁴⁵ USAID, Country Report on Human Rights Practices for 2017: Kosovo (2018), 10.

⁴⁶ Group for Legal and Political Studies, 'Nations in Transit: Kosovo 2018'; website Freedom House, p. 12, https://freedomhouse.org/sites/default/files/NIT2018_Kosovo.pdf.

want, instead of taking the Faculty's advice. Overall, this lack of cooperation leads to inefficiency in the legal system and has an indirectly weakens the substance of human rights.

Transparency Deficiencies

It is a basic tenet of the rule of law that Citizens have the right to know what their government does and therefore have the right to be informed about laws and decisions in order to know their rights and obligations. In Kosovo, laws, acts and agreements are published on the website of the Parliament and in the Official Gazette. The institution responsible for this is the Office for Publishing the Official Gazette, which operates within the Office of the Prime Minister of Kosovo. Although all laws are published, these are not necessarily easily accessible for the general public. Amendments are published in different Gazettes; when a particular law is adopted it will be published in the Official Gazette of the quarter of the year it is adopted. But, when an amendment to that law is made, it will be published in a different Gazette. The same applies for By-laws. Primary legislation is published online in the Official Gazette, but secondary legislation is only published when the Prime Minister requests it specifically. Most secondary legislation is published on websites of individual ministries and the Office of the Prime Minister, but this sometimes makes it unclear where to find certain documents.

These disparities have created confusion in terms of legal clarity. Due to a lack of transparency in the judicial process, it is difficult for the public, media and even other members of the judiciary to accurately judge the effectiveness and fairness of the work of the judiciary. There appears to be a general mistrust of the media amongst judges and prosecutors, resulting in a reluctance to provide information. This, in turn, has contributed to the development of a negative image of the judiciary and the prosecution services within the media. A poor and antagonistic relationship has developed between the media and judicial institutions.⁴⁷ An increase in the transparency of the judicial disciplinary process would be an effective measure in increasing public trust and increasing efficiency of the judiciary.⁴⁸

⁴⁷ United Nations Office on Drugs and Crime, *Judicial Integrity in Kosovo* (2014) 31.

⁴⁸ *Ibidem*, 15.

CONCLUDING REMARKS

Kosovo's Constitutional commitment to several Human Rights Treaties in Articles 22, 53 and 58 is admirable. However, it should be noted that without being a state party to these treaties, their full effectiveness will not be possible and therefore the protection of human rights will be lacking. At the core of such treaties is the idea of an external mechanism to protect the individual from injustices of the state. Since Kosovo's implementation is on a domestic basis, and the majority of the IHRTs are interpreted only by domestic judges, this means true human rights protection is lacking.

In addition to this problem, it can be considered that there is a significant gap between the rights protected in theory by Kosovo's constitution and the implementation of such rights in practice. In addition to the lack of external mechanisms, then, Kosovo's internal mechanisms for protecting human rights are deficient. Based on ECMI Kosovo's dialogue with several high-level legal experts, it can be considered that there are two main reasons why the International Human Rights Treaties (IHRTs) named in Article 22, 53 and 58 of the Constitution of Kosovo are not implemented properly.

First, there is a lack of knowledge surrounding these Treaties. This is partly attributable to the fact that Kosovo is not part of the United Nations and the European Union, but is also the result of a lack of qualitative education. The Academy of Justice does not provide much training on international laws, which has to do with the general interest of Kosovar judges. Judges do not understand the content of the IHRTs and do not use the commentaries of the respective laws in their judgments. Additionally, the quality of teaching of international law in the Law Faculty of the University of Pristina appears insufficient; students are not provided enough practical training on these topics and complain they are not able to make their own interests known. Lack of utilities is also a problem within respective law faculties to provide qualitative education.

The lack of capacity and transparency within the whole judicial system is problematic and has led to a mistrust of the system within the general population. Cases take an average of 8.5 years to be finalized, often going back and forth between different courts without finding a solution. The large backlog of cases and complicated bureaucratic procedures are a direct consequence of the lack of legal associates working within the Judiciary system. Political influence and corruption within the Judiciary does not help to win back citizens' trust or find sustainable solutions. Lack of cooperation between several institutions exacerbates the situation. The problem of finding laws, by-laws and amendments is still a huge problem for everyone involved within the Judiciary. This lack of transparency makes for different outcomes of similar cases, which makes it incredibly difficult for judges to make good decisions.

It must be acknowledged that all these problems are structural and will not be solved overnight. Kosovo's legal institutions are less than 20 years old and have been made up of external judges for large parts of their life. In addition, the unification of the justice system to include Serbian judges only took place in October 2017.⁴⁹ This does not mean that the inefficiency of the judicial system, particularly in protecting human rights, should be accepted or condoned. It rather entails an understanding that to improve efficiency and the effective implementation of human rights will take time and require substantive structural change.

⁴⁹ <http://www.balkaninsight.com/en/article/kosovo-serbia-justice-agreement-expected-to-be-implemented-10-16-2017>

Whilst there remain significant deficiencies in Kosovo's present human rights framework and its relationship with international law, it is considered that there is significant hope for the future. As Kosovo progresses further towards consolidating its statehood, this will eventually allow for its accession to both the Council of Europe and the United Nations.

REFERENCES

Official Reports & Policy Papers (Government & NGO):

AKTIV & CPT, *Policy Brief: The Quality of Kosovo Laws into Serbian Language* (Mitrovica 2016).

Civic Energy Center, 'Policy Brief on the Quality of Translation of Kosovo Laws into Serbian Language', website Civic Energy Center, http://civicenergycenter.org/en/empirica/policy_brief_on_the_quality_of_translation_of_kosovo_laws_into_serbian_language/249/.

European Center for Minority Issues (ECMI) Kosovo, *Communities in Kosovo: A guidebook for professionals working with communities in Kosovo* (Pristina 2013).

European Centre for Minority Issues (ECMI) Kosovo, *Policy Brief – Knowledge and Use of Official Languages in Kosovo municipalities* (Pristina 2012).

Group for Legal and Political Studies, *Kosovo's Path to the Council of Europe: Identifying procedures, obstacles and solutions for membership* (Pristina 2013).

Group for Legal and Political Studies, 'Nations in Transit: Kosovo 2018', website Freedom House, p. 12, https://freedomhouse.org/sites/default/files/NiT2018_Kosovo.pdf.

Kosovo Judicial Council, *Statistics of the Courts: Annual Report 2017* (Pristina 2018).

Ombudsperson Institution of Kosovo, *Annual Report 2017* (Pristina 2018).

Ombudsperson Institution of Kosovo, *First Annual Report of National Preventive Mechanism against Torture* (Pristina 2017).

Organization for Security and Co-operation in Europe (OSCE) Mission in Kosovo, *Community Rights Assessment Report, Fourth Edition* (Pristina 2015).

United Nations Office on Drugs and Crime, *Judicial Integrity in Kosovo* (2014).

USAID, *Country Report on Human Rights Practices for 2017: Kosovo* (Pristina 2018).

Academic Articles:

Beha, Adem, 'Minority Rights: An Opportunity for Adjustment of Ethnic Relations in Kosovo?', *Journal on Ethnopolitics and Minority Issues in Europe* 13 (2014) 85 – 110.

Craith, Mairead Nic, 'Facilitating or Generating Linguistic Diversity: The European Charter for Regional or Minority Languages', in: Hogan-Brun, Gabrielle & Wolff, Stefan ed., *Minority languages in Europe. Frameworks, Status, Prospects* (London 2003) 56-72.

Dickinson, Laura, 'The Promise of Hybrid Courts', *American Journal of International Law* 97 (2003) 295 – 310.

Gál, Kinga, 'The Council of Europe framework convention for the protection of national minorities and its impact on central and eastern Europe', *Journal on Ethnopolitics and Minority Issues in Europe* 1 (2000) 1 – 17.

Hannum H., 'The status of the Universal Declaration of Human Rights in national and international law', *Georgia Journal of International and Comparative Law* 25 (1995) 287 – 397.

Hert, Paul de & Fisnik Korenica, 'The New Kosovo Constitution and Its Relationship with the European Convention on Human Rights: Constitutionalization "Without" Ratification in Post-Conflict Societies', *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 76 (2016) 143 – 166.

Korenica, Fisnik & Doli, Dren, 'Taking Care of Strasbourg: The Status of the European Convention on Human Rights and the Case-Law of the European Court of Human Rights in Kosovo's Domestic Legal System', *Liverpool Law Review* 32 (2011) 209 – 223.

Lantscher, Emma, 'Protection of Minority Communities in Kosovo: Legally Ahead of European Standards – Practically still a Long Way to Go', *Review of Central and East European Law* 33 (2008) 451 – 490.

Lillich, R. B., 'Invoking International Human Rights Law in Domestic Courts', *University of Cincinnati Law Review* 54 (1985) 367 – 415.

Morina, V., Korenica, F. and Doli, D., 'The relationship between international law and national law in the case of Kosovo: A constitutional perspective', *International Journal of Constitutional Law* 9 (2011) 274 – 296.

Nakamura, Erika, 'Monitoring accountability for UN peacekeeping under ICCPR', *Nordic journal of international law* 86 (2017) 341 – 365.

Reinisch, August, 'The Changing international Legal Framework for Dealing with Non-State Actors', in: *Philip Alston ed. Non-State Actors and Human Rights* (Collected Courses of the Academy of European law 2005) 38

Legislation:

Council of Europe, *European Charter for Regional or Minority Languages* (Strasbourg 1992).

Short Articles:

Milmo, Cahal, 'Cornish to be recognised as a national minority along with Scots, Welsh and Irish', *website The Independent*, 23-04-2014, <http://www.independent.co.uk/news/uk/politics/cornish-people-formally-declared-a-national-minority-along-with-scots-welsh-and-irish-9278725.html>.

N.N., 'Children's rights in Kosovo must not exist only on paper', *website ChildPact*, 19-04-2017, <http://www.childpact.org/2017/04/19/3811/>.

Morina, Die and Leposhtica, Iabinot, 'Deal on unifying Kosovo Justice System Takes Effect', *Website BalkanInsight* 17-10-17 <http://www.balkaninsight.com/en/article/kosovo-serbia-justice-agreement-expected-to-be-implemented-10-16-2017>

Cases

Ibrahimi and 48 other former employees of the Kosovo Energy Corporation v. the Supreme Court of Kosovo, KI 40/09, 2009, Constitutional Court of Kosovo

Kastrati v. Supreme Court, KI 68/09, 2009, Constitutional Court of Kosovo

Bislimi v. MI et al., KI 06/10, 2010, Constitutional Court of Kosovo

