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REPORT ON THE GENDER ANALYSIS OF SMALL ARMS CONTROL LEGAL AND POLICY FRAMEWORKS IN KOSOVO





The South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) is a joint initiative of the United Nations Development Programme (UNDP) and the Regional Cooperation Council (RCC) aimed at strengthening national and regional capacities to control and reduce the proliferation and misuse of small arms and light weapons, thus contributing to enhanced stability, security, and development in South Eastern and Eastern Europe.

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ABBREVIATIONS AND ACRONYMS

CSW	Centres for Social Work
DV	Domestic violence
DPS	Department of Public Safety in the Ministry of Internal Affairs
EU	European Union
GBV	Gender-based violence
Istanbul Convention	Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence
MIA	Ministry of Internal Affairs
MKSF	Ministry for Kosovo Security Forces
KP	Kosovo Police
KSF	Kosovo Security Forces
MoD	Ministry of Defence
SALW	Small Arms and Light Weapons
SEE	South East Europe
SEESAC	South-Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons
SOP	Standard Operating Procedures
UNDP	United Nations Development Programme

EXECUTIVE SUMMARY

This report provides an extensive overview of the findings of the gender analysis of legislation and policies relevant to firearms control in Kosovo.*

Comprehensive research conducted by UNDP SEESAC¹ has thoroughly documented gendered concerns relevant for firearms control, including gendered aspects of firearms ownership, use, and misuse. The available data indicate that:

- Ownership of small arms is highly gendered, and the majority of firearms are owned by men;
- The use and misuse of firearms exhibits different effects on women and men;
- Men account for the majority of victims of firearm homicides;
- Women, however, are at a higher risk than men of being killed by a family member with a firearm and are at particular risk of intimate partner homicide. In the domestic context, men are mostly at risk of being killed by other male family members;
- Women are more likely than men to feel that a gun at home makes them less safe.

To effectively address these patterns, it is necessary to enhance the prevention of firearm misuse and comprehensively integrate the gender perspective into firearms control. This report provides an extensive overview of the findings of the gender analysis of legislation and policies relevant to firearms control in Kosovo. Through identifying gaps in respective legislative and strategic frameworks, the analysis offers recommendations for authorities on how to effectively increase their gender responsiveness and address specific risks that women, men, girls, and boys face in this regard.

The analysis aims to support relevant institutions to fully integrate the gender perspective across small arms control. In addition, it aims to facilitate the implementation of EU Council Decision 2018/1788 in support of the implementation of the Roadmap for a Sustainable Solution to the Illegal Possession, Misuse and Trafficking of Small Arms and Light Weapons and their Ammunition in The Western Balkans by 2024.

In this report, the gender responsiveness of the legislation is assessed according to the main gender concerns related to small arms:

- Legislative and policy preconditions for the integration of the gender perspective into small arms control policies and legislation;
- The participation and representation of women in arms control policy/legislation making and implementation;
- Linkages between firearms and domestic violence and violence against women;
- Responses to gendered aspects of firearms demand, use, and misuse;
- Gender-sensitive data collection practices; and
- Links between the arms trade and the risks of gender-based violence and violence against women.

* For the United Nations Development Programme, references to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

For the European Union, this designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

¹ UNDP SEESAC, Gender and SALW in South East Europe, 2016; UNDP SEESAC, The Misuse of Firearms in Domestic Violence in South East Europe, 2019; UNDP SEESAC, Men and Firearms in South East Europe, 2019; UNDP SEESAC, Gender and Small Arms: Fast Facts, 2019; UNDP SEESAC, Firearms Possession and Domestic Violence in the Western Balkans: A Comparative Study of Legislation and Implementation Mechanisms, 2007.

KEY FINDINGS

The main findings of the analysis mentioned above are outlined below according to the established structure of the report.

1. LEGISLATIVE AND POLICY PRECONDITIONS FOR THE INTEGRATION OF THE GENDER PERSPECTIVE AND THE PARTICIPATION OF WOMEN INTO SMALL ARMS CONTROL

The Law on Gender Equality of 2015² is an overarching law that establishes key principles related to gender equality. The Law stipulates gender mainstreaming “at all levels of legislative, executive, judicial, and other public institutions”³ and also prescribes the inclusion of gender budgeting in all areas, as a necessary tool that should guarantee that the principle of gender equality is respected in the collection, distribution, and allocation of resources.⁴ The Law also requires that all data collected by central and local bodies, public services and institutions, public and private undertakings, and other entities shall be sex-disaggregated. In addition, the Law establishes that gender equality must be taken into account during the preparation of reports, analyses, and projects carried out by the above-mentioned institutions and entities.

With respect to equal gender **participation/representation**, the Law defines unequal representation as “...when the participation or representation of one gender is less than fifty percent (50%) at any level of decision-making body in political and public life (Article 3, paragraph 1.15).” The Law stipulates that institutions, including bodies at all levels of legislative, executive, judicial, and other public institutions, are obligated to ensure that the selection, recruitment, and appointment processes, including for leading positions, are in line with the requirement for equal representation of women and men, and to ensure equal representation of women and men in all conferences, meetings, seminars, and trainings.

Kosovo’s Programme for Gender Equality 2020-2024 provides a wide range of entry points for both gender mainstreaming and increasing women’s participation across the security sector, which are also relevant for enhancing the gender responsiveness of SALW control.

Key findings indicate that Kosovo’s institutions have undertaken substantial reforms when drafting and developing a vast number of laws and policies related to the areas analysed. However, these laws and policies are insufficiently interlinked with the laws and policies regulating the legal framework of civilian firearms possession.

The Small Arms, Light Weapons, and Explosives Control Strategy 2017 -2021 sets out four strategic objectives which aim to advance legislation and policy development (Strategic Objective 1), to develop a comprehensive approach for reducing the risks of weapons and explosives posing threats to the public order and security (Strategic Objective 2); to further develop institutional and investigative capacities (Strategic Objective 3), and to enhance inter-institutional coordination and international cooperation (Strategic Objective 4). Although all four strategic objectives are directly relevant to advancing gender responsiveness in SALW control, the Strategy and accompanying Action Plan 2017-2021 provide only limited recognition of the relevance of the gender perspective in SALW control, and thus limited entry points for gender mainstreaming. The Strategy does not sufficiently recognize the gender dimensions of firearms or the specific gender differentiated effects of firearms misuse on women, and it is not based on a fully fledged gender analysis. As the Strategy expired in 2021, recommendations stemming from this analysis should be utilized in the development of a new Strategy, specifically in addressing issues related to the use of firearms in the context of domestic violence, but also to other gendered aspects of firearms.

2] See: the Kosovo Law on Gender Equality 2015, No. 05/L -020. Available at <http://www.kuvendikosoves.org/common/docs/lig-jet/05-L-020%20a.pdf>.

3] Law on Gender Equality, Article 5.1.3.

4] Law on Gender Equality, Article 5, paragraph 1.5.

2. LINKAGES BETWEEN FIREARMS AND DOMESTIC VIOLENCE, VIOLENCE AGAINST WOMEN AND GENDER-BASED VIOLENCE

The possession of firearms in Kosovo is regulated by the Law on Weapons, Law no. 05/L -022 (2015). The Law on Weapons prescribes that danger to public order and safety, which includes **domestic violence, represents ground for the immediate rejection of a firearm license⁵ application**. Consequently, an application will be rejected if:

1. The applicant has been convicted of a criminal offense;
2. The applicant has been convicted through a final court decision for a minor offence of breaching public peace and order involving violent elements;
3. The applicant's circumstances show that firearms may be misused, particularly in cases of an applicant being registered on any list of the relevant authorities for domestic violence;
4. The applicant has perpetrated domestic violence which has been registered in police files or the relevant courts;
5. The applicant is under investigation for a criminal offense.

The procedure for the acquisition of firearms and ammunition by a natural person starts with one's applying for a firearm license through the Ministry of Internal Affairs. The Department for Public Safety (DPS) within the Ministry of Internal Affairs is the competent body for making decisions on issuing firearm licenses. The Law on Weapons prescribes that the legitimate reasons for purchasing a weapon and ammunition by a natural person are restricted to: the carrying of firearms; hunting; shooting range purposes; and collection purposes.

The security vetting for the requirements established in Article 10 of the Law on Weapons (consolidated version 97/2018) is conducted by the use of data from official records kept by relevant institutions, in particular Kosovo Police and the courts. The security vetting is performed to ensure that an applicant fulfils the requirements for possession of a firearm license, which is verified with the issuance of a confirmation that the person does not represent a danger to public order and safety. The confirmation indicating that a natural person has not been convicted of a criminal or minor offence is issued by the court, while the confirmation certifying that a natural person is not registered on any list of the relevant authorities for domestic violence is issued by the Police. These confirmations are essential for the approval of acquiring a firearm and serve as proof that, among other things, the person does not have a registered domestic violence record with the Police. These confirmations are then submitted to the Ministry of Internal Affairs together with the application and other relevant documentation. Evidently, this background investigation entails only those confirmations issued by the court and the Police.

In addition, the Law on Weapons also regulates the procedure for the renewal of a firearm license and stipulates that the same conditions apply as for the approval of the license for acquiring firearms and ammunition.

Although the legal framework regulates and aims to restrict access to firearms and revoke any relevant licenses and firearms if domestic violence occurs, this analysis has identified several key challenges that remain to be addressed which would further enhance the prevention of the use of firearms in domestic violence and help ensure effective implementation of the relevant legal provisions:

1. A significant number of domestic violence cases, which could be taken into account during security vetting, are left unreported and thus unregistered in the records kept by relevant authorities. For example, according to the OSCE-led Survey on Well-being and Safety of Women, only 2% of victims in Kosovo contacted the police following the most serious incident committed by a current partner, 10% by a previous partner, and 9% by a non-partner.⁶ This significantly hinders the prevention of firearms misuse in the context of domestic violence and

⁵ In this report, the firearm license shall refer to the following firearm documents as defined by the Article 17 of the Law on Weapons: firearm carrying permit, weapon collection permit; hunting weapon permit; sport shooting permit; and permit for D category weapons. It also refers to the consent for acquiring a weapon.

⁶ See: the OSCE Led Survey on Violence against Women: Well-Being and Safety of Women, Report at a Glance OSCE 2019. Available at: <https://www.osce.org/files/f/documents/5/b/418913.pdf>

calls for more specific legislative solutions.

2. The Law on Weapons does not explicitly regulate whether security vetting includes interviewing intimate partners, family members, colleagues, or neighbours.
3. The Law on Weapons does not explicitly mandate that the security vetting of applicants include consultation with the Centre for Social Work regarding issues of domestic violence or violent behaviour.
4. The relevant legislation does not lay out an obligation of the responsible institution to notify current or former spouses/partners or other close family members about the submission of an application by an applicant for the acquisition of firearms.
5. The Law on Weapons does not specifically regulate the issue of whether security vetting takes into account if a protection order and/or an emergency protection order related to domestic violence acts has been issued against the applicant.

Addressing these issues would decrease the risk of firearms misuse and enhance the prevention of the use of firearms in domestic violence incidents.

The Law on Protection from Domestic Violence,⁷ adopted in 2010, prescribes special measures to protect victims of domestic violence and the creation of appropriate protective conditions for victims, including their support and rehabilitation, while also establishes measures for the rehabilitation of perpetrators.

Based on the Law on Protection from Domestic Violence and other laws prescribing the roles and responsibilities of the primary relevant institutions for responding to domestic violence cases, in 2013 the central institutions adopted the Standard Operating Procedures for Protection from Domestic Violence (SOPs). The SOPs take into account the risk of firearm misuse and define different levels of risks depending on whether a perpetrator possesses firearms or not, and whether he/she has threatened the victim(s) with a weapon. In addition, the SOPs provide guidelines for security risk assessments of domestic violence cases when firearms might be involved. The SOPs foresee the filling out of the so-called Basic Data Form by the police when conducting the risk assessment. The Basic Data Form includes an item inquiring as to whether a weapon has been involved in the incident and whether it has been seized. Additionally, the Basic Data Form contains items requiring information on whether the perpetrator has threatened the victim with a weapon and/or has been arrested in the past.⁸ The SOPs also provide advice and procedures for the development of the Security Plan for the victim of domestic violence, including the involvement of shelters when relevant, with the support of the Police and centres for social welfare (CSWs), particularly in cases involving children. Furthermore, they provide guidance for victims when planning to leave the home after an incidence of domestic violence.

In addition to the civil proceedings regulated according to the Law on Protection from Domestic violence, relevant criminal regulations and their corresponding proceedings further define domestic violence, per the recently amended Criminal Code. In 2020, the Criminal Code was amended to define acts of domestic violence specifically under Article 248, in line with the definition of the Istanbul Convention. The Criminal Code also defines a number of other criminal offences committed in a domestic relationship that may be considered as grounds for criminal prosecution. Furthermore, the Criminal Code defines that domestic violence "includes the physical, psychological, or economic violence or mistreatment with the intent to violate the dignity of another within a domestic relationship (Article 248, Criminal Code of Kosovo)."

The Law on Weapons extensively regulates the sequestration, revocation, and confiscation of licenses, and weapons. License and weapons shall be confiscated if the holder is convicted through a final decision for a criminal offence or minor offence from Article 10, paragraph 1 (danger to public order and safety), or if the holder is not in compliance with the criteria defined in this Law. Both provisions ensure that licenses and weapons shall be confiscated if domestic violence occurs.

The carrying of a firearm is prohibited unless the person is: a certified worker and is allowed to use it during working hours at the working place; a security officer working for a recognized diplomatic mission; or a security officer providing legal personnel protection for their authorized employers. In

7] The Law on Protection from Domestic Violence from 2010, <http://www.assembly-kosova.org/common/docs/ligjet/2010-182-eng.pdf>

8] See: Annex 3, 8 and 9 of the SOP's.

addition, the carrying of firearms by a natural person may be allowed for: a vulnerable person (who has been assessed as being subject to a risk and who cannot be protected in any other way, per the assessment of the Risk Assessment Committee (Kosovo Police) or any other relevant institution with justified legal responsibility); a security officer that is employed at the recognized behest of authorized personnel in certain institutions; and for a security officer whose carrying of firearms is required and authorized for maintaining public order and public safety not captured in the categories above.

The use of firearms in public places or in places where human safety may be risked, including displaying firearms in a manner that is deemed as disturbing, is prohibited and is regulated by the Regulation for Firearm Carrying.⁹

Relevant legislation regulates the use and carrying of firearms by security sector personnel. In the area of the private security sector personnel, however, specific attention should be paid to any past reports of domestic violence incidence, including within the existing Law on Private Security Services that currently lacks any provisions related to these criteria. The relevant legislation should be amended to include the vetting of such reports as mandatory elements for consideration in the process of providing licenses for security sector personnel.

3. RESPONSES TO GENDER ASPECTS OF FIREARM DEMAND, USE, AND MISUSE

The Action Plan for the implementation of the Small Arms, Light Weapons, and Explosives Control Strategy 2017 -2021 envisages the integration of the gender perspective into activities related to awareness raising, through regular cooperation and communication with women's NGOs. The activities which are to be utilized in this regard remain to be developed and are planned to be carried out according to the implementation timelines of the Strategy.¹⁰

In addition to the Small Arms, Light Weapons, and Explosives Control Strategy, a number of other relevant strategies could provide important entry points for addressing the diverse gendered aspects of firearm demand, use, and misuse within their respective areas. However, these strategies either only marginally address the gendered aspects of small arms or fail to address them entirely.

A notable exception is the **Kosovo Programme on Gender Equality** (2020-2024),¹¹ which aims to promote the equal realization of rights for women and men in decision-making, peace, security, and justice, thereby guaranteeing the achievement of gender equality. Under Strategic Objective III, research on the impact of small arms on the security of men and women from the gender perspective is envisaged.

Additionally, while the Strategy and Action Plan on Community Policing 2017-2021¹² do not specifically address domestic violence issues, they do call for local community representatives to identify safety concerns based on various issues identified locally. They emphasize and call for increased interaction with local communities, through Municipal Community Safety Councils, Local Public Security Committees, the business community, and cultural and sports communities, including with women focused NGOs and pre-university education institutions. However, this strategy does not have any references to gender equality, women's participation, or the gender aspects of firearms.

The Kosovo Youth Strategy and Action Plan aim to improve *the situation of young persons aged between 15 to 24*.¹³ The Strategy also establishes a specific goal for increasing youth security and foresees the implementation of a wide range of activities in this regard. In addition, it envisages comprehensive research into phenomena that affect a safe and healthy youth environment. The Strategy does not specifically mention risks related to domestic and/or gender-based violence or risks posed by firearms.

The Strategy and Action Plan for Community Safety 2018-2023 aim to improve the legal and institutional environment and strengthen inhabitants' cooperation with local and international

9] Article 4, REGULATION no. 04 /2012 - MIA for firearms carrying.

10] Page 26 of 29 of the Small Arms, Light Weapons, and Explosive Control Strategy and Action Plan 2017-2021. Available at <https://www.seesac.org/f/docs/Kosovo-1/Small-Arms-Light-Weapons-and-Explosive-Control-Strategy-and-Action-Plan-2017--2.pdf>.

11] At <https://abgj.rks-gov.net/assets/cms/uploads/files/Publikimet%20ABGJ/Strategjia%20Komb%C3%ABtare%20e%20RK%20p%C3%ABr%20mbrojtje%20nga%20dhuna%20ne%20familje%202016-2020.pdf>

12] See: <https://www.kosovopolice.com/wp-content/uploads/2020/07/3.-Strategy-and-Action-Plan-2017-2021-Community-Policing-.pdf>

13] Available at: https://www.mkrs-ks.org/repository/docs/Strategy_for_Youth_2019-2023.pdf

institutions for the purpose of preventing negative phenomena that threaten community safety. It also aims to provide a high level of inhabitants' safety, ensure gender emancipation, and facilitate an inclusive society. The Strategy does not, however, provide a specific set of procedures, nor a breakdown of activities for any of these concerns, nor does it interlink domestic violence and with the use of legal or illegal firearms, thereby perpetuating the risk of victims in these contexts.

4. GENDER-SENSITIVE DATA COLLECTION AND RECORD KEEPING PRACTICES

The Law on Weapons stipulates that *the competent body maintains records for all requests by the applicant, documents issued, and other necessary documents for implementing provisions of this law or for cooperation with other relevant authorities* (Article 67, paragraph 1). In addition, it is prescribed that the competent body shall maintain a computer system that grants relevant authorities access to data on weapons, parts of weapons, and ammunition, including, but not limited to: category, type, model, producer, place of production, calibre, serial number, and the name of the exporter, importer, and last known user (Article 67, paragraph 2). These data are intended to enable the identifying and tracking of firearms.

The Law on Weapons also establishes the obligation of the maintenance of relevant evidence by competent legal entities. In this regard, the Law on Weapons stipulates that the legal entity *shall maintain the register for all weapons, parts of weapons, and ammunition, and also data on receiving or transferring them authorized within this law*. This includes data that enable the identification and tracking of each firearm, including: category, type, model, producer, place of production, calibre, and serial number, as well as data on relevant legal entities, including the name and address of any entity that has sold or purchased the firearm, and of the last known user (Article 68, paragraph 2). In addition, hunting and shooting associations, training centres, and other legal entities which possess firearms on the basis of a firearms possession license, such as those recognized as authorized users of hunting areas, shall maintain records of firearms and ammunition, as well as regarding persons to whom they have provided weapons and ammunition for use. (Article 68, paragraph 2).

In addition, data captured through firearm focal points should be sex disaggregated. Such data include: the date of the incident, the time of the incident (day/night, day of the week, month), the region and location of the incident, the police station reporting the incident, the brand of the weapon, its type/category, the model of the weapon, its calibre, country of production, any conversion/modification/etc. of the weapon, its serial number (confidential), its legality/illegality, its confiscation/seizure, any ammunition, the category of ammunition, the producer of the ammunition, the amount of ammunition, the number of perpetrators, the age and gender of the perpetrator(s), the number of victim(s), and the age and gender of the victim(s).

Furthermore, according to the Law on Gender Equality, in Article 5, paragraph 1.8, it is stated that "gender divisions of all data and collected statistical information shall be recorded, registered, and processed and institutions shall be obliged to submit these data to the Kosovo Agency of Statistics." This establishes the Kosovo Agency of Statistics as the primary body within the institutional network for overseeing the collection and gender-disaggregation of data from the relevant institutions as well as for producing relevant analysis.

5. ARMS TRADE

The Law on the Trade of Strategic Goods regulates the export, import, transit, trans-shipment, re-export, and re-transfer of strategic goods, the provision of related services, and the control, supervision, rights, and obligations of parties taking part in the business activities of this field. The Law on the Trade of Strategic Goods is in accordance with EU Regulation No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components. It is also in line with the Council Directive 91/477/EEC on control of the acquisition and possession of weapons amended by Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008. In addition, the Law addresses criteria set by Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment. Article 15 of the Law on the Trade of Strategic Goods stipulates that when reviewing an application for export, import, transit, trans-shipment, extra-territorial re-export,

re-transfer, or the provision of related services, the Commission for Control of Trade of Strategic Goods is to reject the application if the issuance of the license shall endanger the respect for human rights in the destination country or respect for international humanitarian law in the destination country. However, the Law does not specifically refer to gender-based violence and violence against women and does not regulate any risk assessment related to gender-based violence. More particularly, the legislation does not explicitly state the risk of conventional arms or other items being used to commit or facilitate serious acts of GBV or serious acts of violence against women and children when conducting export assessment.

RECOMMENDATIONS

An extensive list of recommendations is provided and elaborated upon in the respective section at the end of the report, while below, only the main recommendations are outlined.

LEGISLATIVE AND POLICY PRECONDITIONS FOR THE INTEGRATION OF THE GENDER PERSPECTIVE AND THE PARTICIPATION OF WOMEN INTO SMALL ARMS CONTROL

- The Roadmap places special importance on gender equality and calls for the full integration of the gender perspective into and balanced representation of women in SALW control. In that regard, any revision of the SALW Control Strategy should be in line with these commitments and enable comprehensive and meaningful integration of the gender perspective;
- Balanced representation of women and men in the SALW Commission should be ensured;
- The participation of gender equality mechanisms, including the Agency for Gender Equality and relevant women's organizations, should be enhanced according to the Law on Gender Equality in drafting relevant policies and reviewing strategies, including the SALW Control Strategy;
- Any future revisions and amendments of laws and policies should also address the future implementation of gender budgeting requirements after a specific law or normative act on the implementation of gender budgeting is drafted and approved by Kosovo institutions.

LINKAGES BETWEEN FIREARMS AND DOMESTIC VIOLENCE, VIOLENCE AGAINST WOMEN AND GENDER-BASED VIOLENCE

The legislative framework should be further developed to enhance the prevention of and institutional response to firearms misuse in cases of domestic violence:

- In order to adequately assess whether an applicant for a firearm license could pose a danger to public safety and whether firearms could be misused in the context of domestic violence, it is necessary to further regulate and develop the existing security vetting procedures, so that the conducting of interviews with intimate partners, close family members, colleagues, and/or neighbours is mandatory. This could also help to address challenges related to the high number of unregistered and unreported cases of domestic violence. Obligatory consultations with the Centre for Social Work should be included in the legal requirements for security vetting of applicants for a firearm license, with a view to obtaining data on any history of domestic abuse or relevant violent behaviours;
- The Law on Weapons should be amended to include the obligatory notification of the spouse/partner (and former for the last two years) of the applicant on the submitted request for the purchase/acquisition of a firearm;
- It should be ensured that a new SALW Control Strategy lay out specific measures to address the use of firearms in domestic violence through enhanced legislative, policy, and operational responses;
- In addition, any new Strategy for Protection from Domestic Violence should pay due attention to the use and risks of use of firearms in acts of domestic violence;

- Comprehensive research should be conducted on the implementation of relevant legislation and institutional practices to prevent the misuse of firearms in the context of domestic violence and intimate partner violence.

RESPONSE TO GENDERED ASPECTS OF FIREARM DEMAND, USE, AND MISUSE

- Strategic synergies should be enhanced between the Small Arms and Light Weapons Control Strategy and Action Plan and other relevant strategies, particularly the Gender Equality Programme, Youth Strategy, etc;
- It should be ensured that a new SALW Control Strategy establishes specific measures to develop preventive mechanisms to address gendered factors fuelling the demand and misuse of firearms, such as specific masculine gender norms. In doing so, preventive measures should particularly target young men;
- It should be ensured that a new SALW Control Strategy envisages capacity building activities for relevant institutions to mainstream the gender perspective in small arms control measures;
- Relevant institutions, including Local Public Safety Committees, Municipal Safety Councils, and central level security mechanisms, i.e., the Security Council, should increase their coordination efforts to enhance the implementation of legislation and policies to prevent the misuse of firearms;
- Any future review and drafting of the Kosovo Security Strategy should integrate the gender perspective, refer to the analysis of links between gender-based violence and the use of firearms, and establish specific indicators related to gender in assessment and monitoring.

GENDER-SENSITIVE DATA COLLECTION PRACTICES

- Any relevant data collection of institutions should be in line with the requirements of the Law on Gender Equality to collect gender-disaggregated data;
- The Agency of Statistics should ensure that any reporting related to the use or possession of firearms by Kosovo institutions also include gender-disaggregated data;
- Future revision of the SALW Control Strategy should include specific measures to improve the collection and availability of gender disaggregated data and enhance the application of gender analysis.

I INTRODUCTION



THE GOAL

The goal of this analysis is to contribute to enhancing the gender responsiveness of small arms control legislation and policies in Kosovo.

The objectives are to:

- Assess the gender responsiveness of the legislation and policies relevant for arms control in Kosovo and map gaps in the legislative and policy responses;
- Provide recommendations for authorities on how to advance the gender responsiveness of the respective legislation and policies.

This analysis is an integral part of the ongoing harmonization of arms-control legislation with the EU regulatory framework and other related international obligations and standards across the region.

Gender-responsive arms control refers to arms control legislation, policies, and programmes which take into account and actively respond to the different experiences and roles of women, men, girls, and boys related to small arms (control) and the gender-specific risks they face with respect to small arms proliferation and misuse.¹⁴

SCOPE

In the context of this specific analysis, the gender responsiveness of legislation will be assessed against several main gendered concerns related to small arms and divided accordingly in respective sections:

- a) Legislative and policy preconditions for the integration of the gender perspective into small arms control policies and legislation;
- b) The participation and representation of women in arms control policy/legislation making and implementation;
- c) Linkages between firearms and domestic violence, violence against women, and gender-based violence;
- d) Responses to gendered aspects of firearm demand, use, and misuse;
- e) Gender-sensitive data collection and record keeping practices;
- f) Links between the arms trade and the risks of gender-based violence and violence against women.

A broad sample of legislative and strategic documents (Annex 1) has been reviewed in order to assess if and to what degree the gender perspective is integrated in relevant small arms control legislative and policy frameworks.

Among others, the following legal and policy documents in the area of small arms, the prevention of domestic violence, and gender equality have been analysed (for the complete list please see the References):

Basic laws and other accompanying bylaws:

- Law on Weapons, Law no. 05/L -022, 2015;
- Law on Police, no. 04/L-076, 2012;
- Criminal Procedure Code, Code no. 04/L-123, 2012;
- Criminal Code 2019, Code no. 06/L-074;
- Law on Protection Against Domestic Violence 2010, Law No.03/L -182, including two relevant bylaws:
- *Administrative Instruction* no. 12/2012 On Determining the Place and Manner of the Psychosocial Treatment of Perpetrators of Domestic Violence;

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- Administrative Instruction of the Ministry of Health no. 02/2013 On the Method of Treatment for Perpetrators of Domestic Violence against Whom there Is Imposed the Measure for Mandatory Medical Treatment for Alcoholism and Addiction to Psychotropic Substances;
- Law on Gender Equality, Law no. 05/L -020, 2015;
- Law on Hunting, Law no. 02/L-53, 2007;
- Law on Private Security Services, Law no. 04/L -004, 2011;
- Law on Public Peace and Order, Law no. 03/L-142, 2009;
- Law on the Kosovo Security Force, Law no. 06/I-123, 2019;
- Law on Civil Use of Explosives, Law no. 06/I-123, 2011;
- Law on Forests, Law no. 2003/3, 2008;
- Law on the Trade of Strategic Goods, 2013;
- Ministry of Internal Affairs, Administrative Instruction no. 10/2012 On Data Collection and Maintenance by the Competent Body;
- Administrative Instruction Regarding the Type and Modality of Theoretical and Practical Training and Verification of the Qualification of the Instructors Employed in the Legal Entities Licensed for Trainings, 2010;
- MIA Administrative Instruction no. 13/2010 on Collection Weapons, 2010;
- MIA Administrative Instruction no. 11/2010 on the Special License, 2010;
- MIA Administrative Instruction no. 15/2010 about the Legalization of Firearms Belonging to Category B, C, and D1, 2010;
- MIA Administrative Instruction regarding Minimum Technical and Security Conditions of Facilities Used for Practical and Theoretical Training in the Handling of Weapons, 2010;
- MIA Administrative Instruction no. 03/2012 For the Use of Firearms by Police Officers, 2012;

Relevant strategies:

- Small Arms, Light Weapons, and Explosives Control Strategy and Action Plan 2017 – 2021;
- Strategy and Action Plan against Organized Crime 2012-2017;
- Strategy and Action Plan on Protection from Domestic Violence (2016-2020);
- Strategy and Action Plan against Domestic Violence (2016-2020);
- Programme on Gender Equality 2020-2024;
- Strategy and Action Plan on Community Policing 2017-2021;
- Strategy and Action Plan for Community Safety 2018-2023.

Other documents that were the subjects of this analysis are listed in Annex 1.

In addition, the report provides an overview of:

- Sex-disaggregated data related to the ownership of, access to, and demand for firearms and their impacts on women and men, including the misuse of firearms in the context of domestic violence; and
- International frameworks relevant for this analysis.



II

CONTEXT: OVERVIEW OF KEY DATA ON THE GENDERED ASPECTS OF SMALL ARMS



Research conducted by UNDP SEESAC has provided extensive evidence of the highly gendered nature of small arms and the important role that the gender perspective plays in shaping and understanding various aspects of firearms ownership, use, and misuse. The *SALW Surveys* and *Gender and Small Arms Fast Facts* series provide detailed insight into the specific context in each jurisdiction in the SEE, including Kosovo. Key findings¹⁵ may be summarized as follows:

Ownership and access to firearms are highly gendered.

In South East Europe, 97.2% of firearms are owned by men, with women owning only 2.8 % of firearms. The ownership of firearms is remarkably gendered in Kosovo with women owning only 0.1% of all legally owned firearms, compared to 99.9% owned by men. In 2016, 38,821 men held firearm licenses, against just 23 women. The number of firearms owned by men continues to increase, while the number of women obtaining firearms licenses is negligible, perpetuating this disproportionality. For instance, between 2012 and 2016, men acquired 99.5% of all licenses, compared to 0.5% acquired by women. The number of registered firearms in Kosovo increased by 14% during the period 2012-2016, with the number of firearms legally owned by civilians increasing from 34,024 in 2012 to 38,844 in 2016.

Men also account for an overwhelming majority of personnel authorized to carry firearms across the security sector. In 2016, 877 women and 6,956 men in the police forces and 22 women and 492 men in correctional services were authorized to carry firearms. The Ministry of Internal Affairs had the highest share of women authorized to carry firearms at 15.9%, followed by the police at 11.2%, and lastly correctional services at 4.3%. This disproportion is even more evident in the case of private security companies. In 2016, all the personnel hired by private security companies authorized to carry firearms were men.

Women and men face specific challenges with respect to the misuse of firearms.

According to data collected by UNDP SEESAC, the great majority of armed violence is committed by men. In Kosovo men committed 99.6% of all firearm-related criminal offences, while only 0.4% were committed by women. In addition, men committed 99.2% of all firearm-related homicides. The majority of male perpetrators of homicide were aged 19 to 35. The incidents usually derived from a criminal action or a dispute.

Firearms were the predominant weapon used to commit homicide in the observed period. From 2012 to 2016, 68.6% of all homicides were committed with firearms. Men accounted for 92.1% of the victims of firearm homicides, with women making up 7.9% of victims. 129 men and 11 women were killed with firearms from 2012 to 2016. Though men accounted for the vast majority of homicide victims, the proportionality of firearm related deaths among all deaths were similar for both women and men; 11 out of 23 women and 129 out of 181 men killed from 2012 to 2016 were killed with firearms. Men aged 36 to 60 accounted for slightly less than one half of all homicide victims, followed by men aged 19 to 35, at 27.9%. Among women killed, those aged 36-60 were most frequently the victims of firearm misuse.

Men also accounted for 87.4% and women for 12.6% of victims who suffered injuries inflicted with firearms.

With respect to the relationship between the victims and perpetrators of firearm-related incidents, women were more at risk than men of firearm misuse from intimate partners and strangers. Men were predominantly at risk from friends/acquaintances/neighbours, followed by strangers.

Men accounted for 95% and women for 5% of all firearm-related suicide victims.

Firearms are often used in the context of domestic violence.

According to the study *Gender and Small Arms in South East Europe*, the likelihood of women being killed increases by five to twelve times if the perpetrator of domestic violence is in possession of a firearm, legal or illegal.¹⁶ Women are proportionately more exposed to the risk of being killed by

^{15]} All data presented in this section are extracted from: Kosovo: Small Arms and Light Weapons Survey 2012-2016, UNDP SEESAC, 2019; *Gender and Small Arms in Kosovo, Fast Facts*, UNDP SEESAC, 2019.

^{16]} See: *Gender and SALW in South East Europe*, (2016) p.23. Available at: https://www.seesac.org/f/docs/Armed-Violence/Gender_and_SALW_publication_eng-web.pdf

a family member; out of 23 women murdered from 2012-2016, 7 were killed by a family member¹⁷ against 11 out of the 181 men killed.¹⁸ The relative risk for women of being killed by an intimate partner is far greater than for men, accounting for 17.4% of all women killed against only 0.6% of all killed men. However, it should be noted that domestic violence committed with the use of firearms affects both men and women. In Kosovo, 71.4% of women and 81.8% of men killed by a family member in the observed period were killed with firearms. All the women killed by an intimate partner were killed with firearms.¹⁹ Yet despite such trends, only 8% of all rejected applications for a firearm license were rejected on the grounds of domestic violence in SEE.

Attitudes towards firearms.

According to SEESAC's survey conducted in 2017, 37.3% of men and 24.3% of women in Kosovo claimed that they would own a gun. Among women, older women were the most prominent in stating that they would own a gun. In spite of these indications, the vast majority of firearm license holders are men, and although 24.3% of women said they would own a gun, they made up only 0.5% of applicants for firearms licenses. In addition, 54.6% of women and 43.5% of men indicated feeling that a gun at home would make them less safe.

Gendered aspects of firearms in Kosovo: A Snapshot

According to recent data, men make up 99.9% of firearm owners and have committed 99.6% of firearm-related criminal offenses. They also account for the majority of victims of firearm-related homicides and injuries (88.7%) but are proportionately more frequently the perpetrators than the victims of firearm misuse. Women, in contrast, own only 0.1% of firearms and make up 0.4% of perpetrators of firearm-related criminal offenses, yet account for 11.3% of victims.

17] Ibid.
18] Summary from Gender and Small Arms in Kosovo, Fast Facts, https://www.seesac.org/f/docs/Gender-and-SALW/Gender-And-Small-Arms_Kosovo_ENG_WEB.pdf.
19] Ibid.

III INTERNATIONAL FRAMEWORKS



With respect to gender equality, Kosovo has committed itself to the UN Convention on the Elimination of All Forms of Discrimination against Women and, recently, to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). Furthermore, these international conventions are considered directly applicable in Kosovo, and in case of any conflict have priority over domestic laws and other acts of public institutions.²⁰

Regarding the control and non-proliferation of small arms and light weapons, Kosovo is committed to the EU Action Plan on Firearms Trafficking (2020-2025), and the *Roadmap for a Sustainable Solution to the Illegal Possession, Misuse and Trafficking of SALW and their Ammunition in the Western Balkans by 2024*. The Roadmap was developed in close cooperation with all relevant institutions of the region under the auspices of the Federal Republic of Germany and SEESAC's technical support, and in coordination with the France, United Kingdom, and the European Commission. The document was officially adopted at the EU-Western Balkans Summit in London on July 10, 2018. The Roadmap includes seven goals, including ensuring that arms control legislation is in place, fully harmonized with the EU regulatory framework and other related international obligations, and standardized across the region by 2023. By 2024, the arms control policies and practices in the Western Balkans should be evidence-based and intelligence-led, the illicit flows of firearms, ammunition, and explosives into, within, and beyond the Western Balkans should be significantly reduced, the supply, demand, and misuse of firearms should also be reduced through increased awareness, education, outreach, and advocacy, and the estimated number of firearms in illicit possession should be substantially decreased in the Western Balkans. Additionally, as part of the Roadmap goals, the Western Balkans should systematically decrease the surplus of and destroy seized SALW and ammunition and should significantly decrease the risk of the proliferation and diversion of firearms, ammunition, and explosives.

The Roadmap places special importance on gender equality and calls for full integration of the gender perspective and balanced representation of women into SALW control.²¹

The Small Arms, Light Weapons, and Explosives Control Strategy and Action Plan 2017–2021 have been adopted.²² International conventions and documents that guide the drafting of relevant legal acts and policies include, but are not limited to, the following documents:

- United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, Plan of Action (2001);
- Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition (2001);
- International Tracing Instrument (2005);
- Arms Trade Treaty;
- OSCE Document on Small Arms and Light Weapons (adopted in 2000 and reissued in 2012);
- Common Position of the Council of the European Union 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment.

The last two decades have seen a gradual convergence between the global agendas on sustainable development, gender equality, the sustaining peace agenda, and small arms and light weapons control.²³

The **Programme of Action on Small Arms (PoA)**, adopted in 2001 by the UN General Assembly established a normative framework for small arms and light weapons control covering a broad spectrum of issues, including improved small arms laws, import/export controls, and stockpile management. While the PoA addresses gender concerns in a limited manner (expressing concerns about the negative impact of the illicit trade in small arms and light weapons on “women and the

20] Review of institutional response by elaborating and studying the cases of two survivors of domestic violence, p.14.

21] Progress reports on the Implementation of the Roadmap note that there have not been any activities in addressing gender concerns and increasing the participation of women in SALW control in Kosovo. As per the 4th Regional Progress Report, the authorities of Kosovo response can be found at page 39. Available at <https://www.seesac.org/f/docs/4th-Regional-Progress-Report/Regional-Narrative-Progress-Report-on-the-Implementation-of-.pdf>

22] <https://www.seesac.org/f/docs/Kosovo-1/Small-Arms-Light-Weapons-and-Explosive-Control-Strategy-and-Action-Plan-2017--2.pdf>

23] UNODA Training manual on gender-mainstreaming small arms control, (unpublished), page 22. Short descriptions of main international instruments are taken from this manual.

elderly”²⁴ in its preamble), significant progress was achieved with the **Outcome Document of the Third Review Conference**²⁵ (2018) of the UN PoA, which renewed the commitment to prevent, combat, and eradicate the illicit trade in small arms and light weapons and highlighted the necessity for further integration of the gender perspective into small arms control.

This includes actions such as:

- increasing understanding of the gender-specific impacts of the illicit trade in small arms and light weapons;
- promoting the full participation and representation of women in policymaking, planning, and implementation processes related to the implementation of the PoA, including their participation in small arms commissions;
- collecting gender-disaggregated data;
- seriously considering increased funding for policies and programmes that take into account the differing impacts of illicit small arms and light weapons on women, men, girls, and boys;
- mainstreaming gender considerations in small arms and light weapons policies and programmes, including in the areas of programme design, planning, implementation, monitoring, and evaluation in implementation efforts;
- exchanging experiences, lessons learned, and best practices on the mainstreaming of gender dimensions in policies and programmes;
- ensuring coordination between relevant authorities on the implementation of the PoA with authorities working on gender quality and women’s affairs – including women’s civil society groups.

The **Arms Trade Treaty** (ATT) is a multilateral treaty that regulates the international trade in conventional weapons which was adopted by the General Assembly in 2013 and entered into force in 2014. In 2020, it was passed by 100 State Parties,²⁶ which committed themselves to applying common standards in the international legal trade in conventional arms and ammunition. The ATT is the first legally binding treaty that recognizes the link between the arms trade and gender-based violence and calls states to take into account “the risks of conventional arms being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children” (Article 7.4). In addition, the CEDAW Committee has called for the full implementation of the Arms Trade Treaty.²⁷

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for action to end such discrimination.

With the adoption of **UNSCR 1325 (2000)**²⁸, the Security Council addressed the disproportionate and unique impact of armed conflict on women for the first time. In addition to United Nations Security Council Resolution (UNSCR) 1325, there are nine others resolutions on women, peace and security: 1820 (2008),²⁹ 1888 (2009),³⁰ 1889 (2009),³¹ 1960 (2010),³² 2106 (2013),³³ 2122 (2013),³⁴

24] It should be explicitly noted here that there is no reference to UNSCR 1325, which was adopted in 2000.

25] https://www.un.org/en/ga/search/view_doc.asp?symbol=A/CONF.192/2018/RC/3&referer=/english/&Lang=E

26] https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVI-8&chapter=26&clang=_en

27] Gender responsive Small Arms Control in the Decade of Action for the SDGs, Pathfinders for Peace, Just and inclusive Societies, February 2020.

28] S/RES/1325 of 31 October 2000. Available at: [www.undocs.org/S/RES/1325\(2000\)](http://www.undocs.org/S/RES/1325(2000)).

29] S/RES/1820 of 19 June 2008. Available at: [www.undocs.org/S/RES/1820\(2008\)](http://www.undocs.org/S/RES/1820(2008)).

30] S/RES/1888 of 30 September 2009. Available at: [www.undocs.org/S/RES/1888\(2009\)](http://www.undocs.org/S/RES/1888(2009)).

31] S/RES/1889 of 5 October 2009. Available at: [www.undocs.org/S/RES/1889\(2009\)](http://www.undocs.org/S/RES/1889(2009)).

32] S/RES/1960 of 16 December 2010. Available at: [www.undocs.org/S/RES/1960\(2010\)](http://www.undocs.org/S/RES/1960(2010)).

33] S/RES/2106 of 24 June 2013. Available at: [www.undocs.org/S/RES/2106\(2013\)](http://www.undocs.org/S/RES/2106(2013)).

34] S/RES/2122 of 18 October 2013. Available at: [www.undocs.org/S/RES/2122\(2013\)](http://www.undocs.org/S/RES/2122(2013)).

2242 (2015),³⁵ 2467 (2019),³⁶ and 2493 (2019).³⁷ A significant subset of these resolutions focuses specifically on the issue of conflict-related sexual violence.³⁸ Collectively, these ten resolutions make up the Women, peace and security agenda, guiding the work to promote gender equality and women's participation. The key provisions include commitments to: i) increase women's participation and representation at all decision-making levels; ii) pay attention to the specific protection needs of women and girls in armed conflict; and iii) integrate the gender perspective into post conflict processes

The 2030 Agenda for Sustainable Development, adopted by all United Nations Member States in 2015, sets 17 Sustainable Development Goals (SDGs), which represent an urgent call for action by all countries in a global partnership. In Europe, these are mainly endorsed and implemented through the processes of EU integrations. For example, the integration and implementation of the SDGs is reflected in the Kosovo Development Strategy 2016-2021, the European Reform Agenda, and the EU-Kosovo signed Stabilisation and Association Agreement.³⁹ The SDGs call on countries to: empower women and girls; achieve gender equality; promote peaceful and inclusive societies by eliminating all forms of violence against all women and girls in the public and private spheres; reduce all forms of violence and related death rates everywhere; and significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets, and combat all forms of organized crime.⁴⁰

Securing our Common Future: An Agenda for Disarmament launched by the UN Secretary General in 2018 *outlines a vision of disarmament actions that help set our world on a path towards sustainable peace and security for all*. The Agenda calls on all Member States to *incorporate gender perspectives in the development of legislation and policies on disarmament and arms control, including consideration of the gendered aspects of ownership, use and misuse of arms; the differentiated impacts of weapons on women and men; and the ways in which gender roles can shape arms control and disarmament policies and practices*.

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic violence (Istanbul Convention) came into force in 2014 and represents the first legally binding document to comprehensively tackle violence against women and domestic violence. Under the Convention, "violence against women" is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological, or economic harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life. The Convention requires criminalization or other sanctioning of the following behaviours: domestic violence (physical, sexual, psychological, or economic violence), stalking, and sexual violence, including rape, sexual harassment, forced marriage, female genital mutilation, forced abortion and forced sterilization. The Convention is based on four pillars:⁴¹

- **Prevention** of violence through sustained measures that address its root causes and aim at changing attitudes, gender roles, and stereotypes that make violence against women acceptable;
- **Protection** of women and girls and the setting up of specialist support services for victims and their children (shelters, round-the-clock telephone helplines, rape crisis or sexual violence referral centres);
- **Prosecution** of the perpetrators, including enabling criminal investigations and proceedings to continue, even if the victim withdraws the complaint;
- Adoption and implementation of **"integrated policies"** that are effective, coordinated, and comprehensive, in that they encompass all relevant measures to prevent and combat all forms of violence against women.

35] S/RES/2242 of 13 October 2015. Available at: [www.undocs.org/S/RES/2242\(2015\)](http://www.undocs.org/S/RES/2242(2015)).

36] S/RES/2467 of 23 April 2019. Available at: [www.undocs.org/S/RES/2467\(2019\)](http://www.undocs.org/S/RES/2467(2019)).

37] S/RES/2493 of 29 October 2019. Available at: [www.undocs.org/S/RES/2493\(2019\)](http://www.undocs.org/S/RES/2493(2019)).

38] S/RES/1820 (2008), S/RES/1888 (2009), S/RES/1960 (2010), S/RES/2106 (2013) and S/RES/2467 (2019).

39] See: "The SDGs in Kosovo: An Agenda for the Future of Kosovo," UN Kosovo Team Fact Sheet 2017. Available at: <http://unckt.org/wp-content/uploads/2017/06/Fact-sheet-SDGs-in-Kosovo-2017-Fin-.pdf>

40] See, for example: SDGs 5, 6, 16. Available at https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

41] Please see: Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence: A global tool to prevent and combat violence against women and girls, p. 4; Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence: Safe from Fear, Safe from Violence.

Article 51 of the Convention - **Risk assessment and risk management**, requires that all necessary legislative or other measures be undertaken to ensure that relevant risk assessment duly takes into account, at all stages of the investigation and application of protective measures, whether perpetrators of the acts of violence covered by the scope of this Convention possess or have access to firearms.

EU Strategy Against Illicit Firearms, Small Arms & Light Weapons & Their Ammunition “Securing arms, protecting citizens” seeks to preserve and protect a peaceful and secure environment for its citizens, and support security and foster development in its neighbourhood and the wider world. Incorporating gender and diversity aspects in SALW-control projects and action is one of key principles which guided the development of the Strategy. At the international level, the EU will systematically mainstream gender considerations in the design of new projects relating to the fight against gun violence and SALW control in general, and the sharing of good practices in this regard.

IV

GENDER ANALYSIS OF SMALL ARMS CONTROL LEGAL AND POLICY FRAMEWORKS



1.

LEGISLATIVE AND POLICY PRECONDITIONS FOR THE INTEGRATION OF THE GENDER PERSPECTIVE AND THE PARTICIPATION OF WOMEN INTO SMALL ARMS CONTROL

1. LEGISLATIVE AND POLICY PRECONDITIONS FOR THE INTEGRATION OF THE GENDER PERSPECTIVE AND THE PARTICIPATION OF WOMEN INTO SMALL ARMS CONTROL

The Law on Gender Equality applies to men, women, and persons with protected characteristics of gender identity or sex determination and guarantees equal opportunity and treatment in public and private areas of social life, including political and public life, employment, education, health, the economy, social benefits, sport, and culture, as well as other areas (see Article 2). The Law on Gender Equality is an overarching law that regulates general principles related to gender equality.

With regards to the legislative preconditions for gender mainstreaming, the Law regulates the responsibility of the institutions at all levels of legislative, executive, judicial, and other public institutions to implement legislative and other measures, including analysing the status of women and men in the respective organization and field, the adoption of strategies and action plans for the promotion and establishment of gender equality in accordance with the Program for Gender Equality, and **gender mainstreaming all policies, documents, and legislation**.

The Law provides the definition of gender mainstreaming as the *inclusion of the gender perspective into every stage of the process, planning, approval, implementation, monitoring, and evaluation of legislation, policies or programs, and budgets in all political, economic, and social areas, considering the promotion and advancement of equal opportunities between men and women*.

Particularly noteworthy in this Law is its explicit definition and requirement for gender responsive budgeting and gender mainstreaming in all institutional bodies “at all levels of legislative, executive, judicial, and other public institutions.”⁴² This means including the gender perspective “into every stage of the process, planning, approval, implementation, monitoring, and evaluation of legislation, policies or programs, and budgets in all political, economic, and social areas.”⁴³ It also prescribes the inclusion of gender budgeting in all areas as a necessary tool that should guarantee that the principle of gender equality shall be respected in the collection, distribution, and allocation of resources.⁴⁴ The introduction of gender budgeting, however, has faced challenges, as it lacks a by-law or specific legal provisions further detailing its implementation. For this purpose, the former Action Plan of the GoK on the Implementation of the Stabilization and Association Agreement with Kosovo had envisioned that the Agency for Gender Equality, jointly with the Ministry of Finance, should draft a by-law or specific law to address the implementation challenges for gender budgeting in practice. The conceptual document was drafted in 2020, with the AGE envisaging that during 2020 the law was to be drafted. However, this has not occurred so far.⁴⁵

The Law also defines the institutional mechanisms for gender equality. The Agency for Gender Equality is responsible for monitoring the implementation of the Law and the Law extensively defines its responsibilities.

In addition, the Law stipulates that all ministries (and municipalities) are obliged: to appoint relevant officials for gender equality with sufficient professional capacity; to allocate sufficient resources from the budget; and to coordinate the implementation of the provisions of the Law on Gender Equality (Article 12, paragraph 1). The Law also defines the duties and responsibilities of the relevant officials, among which it calls for the inclusion of gender mainstreaming and budgeting in drafting and implementing policies (Article 12, paragraph 2).

With respect to data collection, the Law mandates *that all data and statistical information collected by institutions which include bodies at all levels of legislative, executive, judicial and other public institutions, shall be disaggregated by sex, and that all data recorded, registered, and processed must be submitted to the Agency of Statistics*.

In addition, the Law mandates that gender equality must be taken into account during the preparation of reports, analyses, and projects by the above-mentioned institutions and entities.⁴⁶

The Small Arms, Light Weapons, and Explosives Control Strategy and Action Plan 2017-2021 contains a comprehensive set of measures which aim *to provide a safe environment where SALW and explosives are under control and do not pose a serious threat to domestic and regional security*.

The Strategy has four strategic objectives:

42] Law on Gender Equality, Article 5.1.3

43] Ibid.

44] Law on Gender Equality, Article 5, paragraph 1.5.

45] See: the KIPRED Report “Lessons Learned and the Way Forward: Gender Analysis of the Kosovo Programme for the Implementation of the Stabilization and Association Agreement of the EU with Kosovo,” by Qosaj-Mustafa, Ariana and Morina, Donjeta. Available at: http://www.kipred.org/repository/docs/Lessons_Learned_and_the_Way_Foward_Gender_Analysis_of_the_Kosovo_Programme_for_the_Implementation_of_the_Stabilization_and_Association_Agreement_2019_to_2023_139209.pdf

46] Ibid.

- Strategic Objective 1: Advance legislation and policy development;
- Strategic Objective 2: Develop a comprehensive approach for reducing the risks of weapons and explosives posing threats to the public order and security;
- Strategic Objective 3: Further develop institutional and investigative capacities;
- Strategic Objective 4: Enhance inter-institutional coordination and international cooperation.

Although all four strategic objectives are directly relevant for advancing gender responsiveness to SALW control, the Strategy and accompanying Action Plan 2017-2021 provide only limited recognition of the important role of the gender perspective in SALW control, and thus only limited entry points for gender mainstreaming. The Strategy does not sufficiently recognize the gendered aspects of firearms or the specific gender differentiated effects of firearm misuse on women. In addition, it is not grounded on a fully fledged gender analysis. The only reference to women is that “according to public opinion surveys in 2015, women support having a firearm at home while women are most often the victims of these weapons,” a statement that does not adequately reflect women’s experience or perspective regarding firearms.

Integration of the gender perspective is foreseen primarily in activities related to awareness raising.

Under Strategic Objective 3, on the development of institutional and investigative capacities, activities aimed at building the analytical and statistical capacities of special sectors are envisaged, such as the ILECU Unit for International Cooperation for Rule of Law Focal Points and the Department of Public Safety and Forensics, agencies which should carry out intelligence analysis and ballistic intelligence incorporating gender analysis. The intended lead for this activity is the Ministry of Internal Affairs.

PARTICIPATION OF WOMEN IN SMALL ARMS CONTROL

With respect to **equal participation/representation**, the Law on Gender Equality defines unequal representation as “...when the participation or representation of one gender is less than fifty percent (50%) at any level of decision-making body in political and public life (Article 3, paragraph 1.15).⁴⁷ Among general measures to prevent gender discrimination and ensure gender equality, the Law prescribes that institutions, including bodies at all levels of legislative, executive, judicial, and other public institutions, are obligated to ensure that the selection, recruitment, and appointment processes, including for leading positions, are in line with the requirement for equal representation of women and men, and to ensure equal representation of women and men in all conferences, meetings, seminars, and trainings (Article 5).

The Programme for Gender Equality 2020-2024 provides a wide range of entry points for both gender mainstreaming and increasing women’s participation across the security sector, which are also relevant for enhancing the gender responsiveness of SALW control.

For instance, under Specific Objective 1.2: Providing/enhancing equal access to rights, freedoms, decision-making, resources, and services, the Programme envisages: capacity building for gender impact assessment in public policies and legislation; capacity building for gender integration in public policy, at the central and local levels; capacity building in the implementation of GRB, at the local and central levels; review of existing long-term policies (Strategies and Action Plans) and legislation; and integration of the gender perspective.

As for women’s participation, the Programme’s Specific Objective 3.2 is dedicated to *increasing equal participation and representation in the decision-making process in line with the requirements of the Law on Gender Equality*. With respect to the security sector, Specific Objective 3.3 aims to *create a safe and non-discriminatory environment for women and men in the security sector*. Under this specific objective, a wide range of activities are planned, including: research on forms of discrimination and a safe environment for men and women in the security sector; the establishment of an advisory board on women, peace and security within security institutions; training of members of security institutions on the requirements of the Law on Gender Equality, including gender budgeting and gender mainstreaming; undertaking affirmative measures to increase the number of women in the security sector; and continuous research on the position of women in the security sector.

1. LEGISLATIVE AND POLICY PRECONDITIONS FOR THE INTEGRATION OF THE GENDER PERSPECTIVE AND THE PARTICIPATION OF WOMEN INTO SMALL ARMS CONTROL

The Law on Protection from Discrimination⁴⁸ was adopted in May 2015 to “establish a general framework for preventing and combating discrimination based on different grounds, in order to implement the principle of equal treatment.”⁴⁹ The Law prohibits direct and indirect discrimination, and it defines all forms of discrimination, including harassment, victimization, and segregation. It is important to emphasize that the implementation of this law encompasses and is effective for public and private institutions, including individual or collective actions or omissions by physical persons (Article 4).⁵⁰ The law establishes the Ombudsperson as the authorized body for the investigation of complaints regarding violations of rights. The law aims to eliminate all forms of discrimination against women, including direct or indirect forms of discrimination, as well as any other grounds of discrimination.

Administrative Instruction no. 03/2012 of the Ministry of Local Government Administration on Municipal Community Safety Councils states, under Article 4, that the MCSC, inter alia, shall include and be represented by a Gender Equality Officer.⁵¹ Furthermore, according to the AI, gender equality and the equitable representation of all ethnic communities shall be taken into consideration during the establishment of all MCSCs. The MCSCs are chaired by the municipal mayors in all Kosovo municipalities. However, even though these forums have mandatory gender representation, the issues discussed do not necessarily pertain to, nor ensure adequate understanding of, the specific security needs of men and women, including, for example, domestic violence issues in different municipalities.⁵² If implemented, the AI could provide good practice in advancing gender equality through the relevant discussion of municipal safety issues. The instruction addresses the issue of gender equality on all levels, including participation and action, and thereby provides entry points for women's deeper involvement in specific issues of security affecting women and children.

48] See: the Law on Protection from Discrimination, Law no. 05/L21, 2015.

49] Article 1 of the Law on Protection from Discrimination 2015, available at: <http://www.kuvendikosoves.org/common/docs/lig-jet/05-L-021%20a.pdf>

50] Ibid.

51] See also: the Agency for Gender Equality, Working Plan to Implement Resolution 1325, “Women, Peace and Security” 2013-2015.

52] See: the KIPRED Report “Security Sector in Kosovo from a Gender Perspective,” 2016, Qosaj-Mustafa, Ariana and Haxholli Violeta. Available at http://www.kipred.org/repository/docs/SECURITY_SECTOR_IN_KOSOVO_FROM_GENDER_PERSPECTIVE_432844.pdf

2.

LINKAGES BETWEEN FIREARMS AND DOMESTIC VIOLENCE

This section provides an analysis of the legal regulation of civilian firearms possession and provides an extensive overview of the procedures on license approval, renewal, and revocation, as well as of the requirements for approval of firearm licenses for natural persons or legal entities. In addition, it provides an analysis of the terms and conditions for the carrying of service firearms by authorized security sector personnel, including private security companies. All these elements are assessed considering, and with the purpose of, preventing the use of firearms in domestic violence.

2.1. LINKAGES BETWEEN FIREARMS AND DOMESTIC VIOLENCE

According to the Law on Protection against Domestic Violence, domestic violence is defined as:

“...one or more intentional acts or omissions committed by a person against another person with whom he or she is or has been in a domestic relationship,⁵³ including, but not limited to: a) the use of physical force or psychological pressure against another member of the family; b) any other action of a family member which may inflict or threaten to inflict physical pain or psychological suffering; c) causing the feeling of fear, personal danger, or threat of dignity; d) physical assault, regardless of consequences; e) insult, offence, calling by offensive names and other forms of violent intimidation; f) repetitive behaviour with the aim of derogating the other person; g) non-consensual sexual acts and sexual ill-treatment; h) unlawfully limiting the freedom of movement of the other person; i) property damage or destruction or threatening to do this; j) causing the other person to fear for his or her physical, emotional, or economic wellbeing; k) forcibly entering and removing a person from a common residence or the other person's residence; l) kidnapping.

The Law on Protection from Domestic Violence prescribes special measures to protect victims of domestic violence and the creation of appropriate protective conditions for victims, including their support and rehabilitation, while also establishes measures for the rehabilitation of perpetrators. The law also defines domestic violence acts for the purpose of issuing protection orders in courts in cases of civil procedure. The law defines three kinds of protection orders and the manner of their issuing: the Protection Order, the Emergency Protection Order, and the Temporary Emergency Protection Order. The Law also sets out the measures that can be issued by the Police through the Temporary Emergency Protection Orders. The law is specifically designed with the purpose of combatting domestic violence and preventing and ameliorating the direct impact such violence has on women's lives, especially with respect to everyday security concerns arising from acts of DV (for a more detailed examination of the particular linkages with small arms control, see the relevant section further below).

The Criminal Code (CCK) was amended in 2020 to define acts of domestic violence specifically under Article 248, in line with the definition of the Istanbul Convention. Under the CCK it is stipulated that:

“...whoever commits physical, psychological, or economic violence or mistreatment with the intent to violate the dignity of another person within a domestic relationship shall be punished by a fine and imprisonment of up to three (3) years. If any act in the Criminal Code is committed within a domestic relationship, it will be considered an aggravating circumstance. Any member of a family who exerts physical, psychological, sexual, or economic violence or mistreatment against another member of his/her family shall be punished by a fine and imprisonment of up to three (3) years. Furthermore, “domestic relationship” for the purpose of this provision is defined in accordance with Article 113 of the Code.”⁵⁴

The use of force or threatening with weapons by the perpetrator against the victim in the context of a family relationship are also considered as aggravating circumstances, with punishment of up to 15 years (See Article 230, Criminal Code of Kosovo).⁵⁵

In addition, a number of criminal offences committed in a family relationship may be considered as grounds for the prosecution of domestic violence acts, such as crimes of light bodily injury, grievous bodily injury, harassment, assault, kidnapping, marital rape, etc.

53] The law also offers a unique definition of a “domestic relationship” based on the intra-familial forms of habitation in Kosovo (Article 2).

54] According to the Criminal Code Article 113, domestic relationship is defined as a relationship between persons who: are engaged or were engaged; are married or were married; are in an extra marital union or were in extra marital union; are co-habiting in a common household or were co-habiting in a common household; share a common house; are related by blood, marriage, adoption, including as in-laws or in a guardian relationship, including parents, grandparents, children, grandchildren, siblings, aunts, uncles, nieces, nephews, cousins; or who are the parents of a common child. At: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=18413>.

55] See: the Criminal Code of Kosovo, 2020. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>

2.2. CIVILIAN POSSESSION OF FIREARMS

LICENSE APPROVAL

Civilian possession of firearms is regulated by the Law on Weapons (Law no. 05/L -022), 2015.⁵⁶ The Law on Weapons regulates the conditions for the purchasing, possession, carrying, storage, production, deactivation, repair, trade, import, transit, sale, transport, and marking of weapons and ammunition for natural and legal entities.⁵⁷ The Law specifically regulates the possession of firearms by civilians.

The Law on Weapons stipulates that firearms and their and ammunition may be purchased and registered only with the consent of the respective institution (the Ministry of Internal Affairs).⁵⁸ The Law on Weapons also defines the categories of firearms that can be acquired if a license is issued by the competent body. The firearms which are allowed to be acquired by civilians are those in categories B, C, and D (Article 4). Under Article 17 the types of licenses applicable for natural persons are established as: 1. firearm carrying license; 2. weapon collection license; 3. hunting weapon license; 4. target shooting license; and 5. license for D category weapons.

The procedure for acquiring firearms and ammunition by a natural person is initiated with the submission of an application for a firearm license to the Ministry of Internal Affairs. The Department for Public Safety (DPS) within the Ministry of Internal Affairs is the competent department for decisions on issuing firearm licenses. The Law prescribes that applications for the acquiring, possession, carrying, storing, producing, deactivation, repair, selling, transporting, or marking of weapons and ammunitions for legal entities and natural persons are to be reviewed and decided upon in the first instance by the DPS. The Law on Weapons prescribes that the Department shall decide upon a request for firearms for a natural person and/or legal entity within thirty (30) days of the submitting of the request, or in "complicated" cases within ninety (90) days, in which case the DPS is obligated to inform the requesting party of the reasons for the special complicated nature of the case (Article 15).

The requirements for license approval are regulated by Article 7 and require that an applicant: 1.1) is twenty-one (21) years old; 1.2) possesses full legal capacity to act; 1.3) possesses physical and mental capacity; 1.4) does not represent a danger to himself, public order, and public safety; 1.5) has passed a theoretical and practical exam for the use of firearms; 1.6) is either a resident or a foreigner with granted permanent residence status (except if an international agreement(s) specifies otherwise); 1.7) has declared the reasons for purchasing the firearm, according to Article 11 of the Law on Weapons, and, if seeking to acquire a firearm for hunting purposes, has proof of regular membership and is certified as a hunter in a recognized hunter's association.

The Law on Weapons prescribes that the defined legitimate reasons for purchasing a weapon and ammunition by a natural person are restricted to: the carrying of firearms; hunting; shooting range purposes; and collection purposes. Licenses are issued according to the reason indicated and applied for. The Law further prescribes that the carrying of a firearm is licensed only for special cases of public safety which are further regulated by subsidiary legal acts issued by the competent bodies.

Article 8 stipulates that for the applicant to be approved for a firearm license, he/she must submit a confirmation issued by the Centre for Social Work not older than six months that the applicant in question has not been deprived of their full acting capacities by a court decision. In addition to this, a medical certificate issued by the Ministry of Health should be submitted that attests to the applicant having the capacity for possessing and carrying of firearm. This is determined through the conducting of a medical examination of the psychological-physical condition of the applicant for the possession of firearms, which cannot be older than one year.⁵⁹

56] Law on Weapons 2015, Law no. 05/L -022

57] Article 1, Law on Weapons, 2015, Law no. 05/L -022 Retrieved from; <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11018>

58] Law on Weapons, 2015, Law no. 05/L -022 Retrieved from; <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11018>

59] Article 9, Law on Weapons, Law no. 05/L -022, 2015. Retrieved from; <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11018>

2. LINKAGES BETWEEN FIREARMS AND DOMESTIC VIOLENCE

The procurement of firearms and parts of firearms may be approved only for natural or legal persons which have a valid license for the possession of firearms issued by the competent body. The same procedure applies for ammunition acquirement, which is regulated by the Law on Weapons (Law no. 05/L-022).

CARRYING OF FIREARMS BY NATURAL PERSONS

Article 18 of the Law on Weapons stipulates that a natural person can apply for a license to carry firearms only if they fulfil the following criteria:

- 1.1. A certified and contracted worker at a legal entity licensed to exercise activity in the field of private security service may carry a firearm according to the respective legislation in force, only during working hours and at the working place, as is further defined in Article 19 of this Law;
- 1.2. The natural person has met the criteria according to Article 7 of this Law and other criteria determined by the relevant subsidiary legal act(s) of the competent body; or
- 1.3. The natural person is a security officer working for recognized diplomatic missions in Kosovo. For the implementation of this item, the competent body shall issue a subsidiary legal act.

The subsidiary legal act that regulates the carrying of firearms for natural persons is *Regulation no. 04/2012-MIA for Firearms Carrying*,⁶⁰ which specifies under Article 4 the justified and legitimate reasons that fulfil the requirements for obtaining consent for carrying firearms from the MIA. The following are the listed legitimate reasons for the carrying of firearms by a natural person:

- 1.1. a vulnerable person (who has been assessed as being subject to a risk and who cannot be protected in any other way, per the assessment of the Risk Assessment Committee (Kosovo Police) or any other relevant institution with justified legal responsibility) and whose status is proven in writing;
- 1.2. a security officer that is employed at the recognized behest of authorized personnel in certain state institutions, agencies, or diplomatic missions, which is providing personnel protection for his/her employer;
- 1.3. the carrying of firearms by the natural person is required for maintaining public order and/or increasing public safety.

Article 11 of the Regulation prescribes that the license for carrying firearms shall be revoked if the legitimate conditions cease to exist.

The Regulation further stipulates that a natural person who has acquired legal permission for firearm acquisition has a deadline of fifteen days from the date the firearm(s) in question is acquired to submit a request for a license to carry firearms to the MIA. It also prohibits any use of firearms in public places or in places where human safety may be risked or the displaying of firearms in a manner that is deemed as disturbing to inhabitants.

DOMESTIC VIOLENCE AND LICENCE APPROVAL

The Law on Weapons, in Article 7, prescribes that in order to obtain legal permission to purchase a firearm, an applicant (natural person) shall not represent **a danger to public order and public safety**. Article 10 considers that a danger to public order and safety is present if: 1.1) a natural person has been convicted through a final court decision for a criminal offence; 1.2) has been convicted through a final court decision for a minor offence of breaching the public peace and order involving violent elements; 1.3) other circumstances show that firearms may be misused, particularly when a person is registered on the lists of relevant authorities for frequent and excessive consumption of alcohol or narcotic drugs or psychotropic substances, for **domestic violence**, or for violence in an educational institution or at the work place; and/or 1.4) the natural person is under investigation for a criminal offense. It is not specified here which authorities in item 1.3 are those which are referred to as relevant regarding the applicant being "registered on the list of relevant authorities" in relation to acts of domestic violence. However, the Kosovo Police and courts are among the primary institutions

with access to, and which are entrusted with, keeping records according to the general laws of police and the legal provisions on the work of regular courts.⁶¹

Furthermore, Article 10 stipulates that if there is a proceeding underway against the natural person for a criminal or minor offence for the unauthorized possession of firearms, the DPS shall suspend the procedure for issuing consent for the purchasing and carrying of a firearm until a final decision of the proceedings has been made.

In summary, the Law on Weapons prescribes that danger to public order and safety, which includes **domestic violence, represents grounds for the immediate rejection of an application for a firearm license**. In regulating this issue, these grounds are qualified as:

1. The applicant has been convicted of a criminal offense;
2. The applicant has been convicted through a final court decision for a minor offence of breaching public peace and order involving violent elements;
3. The applicant's circumstances show that firearms may be misused, particularly in cases of an applicant being registered on any list of the relevant authorities for domestic violence;
4. The applicant has perpetrated domestic violence which has been registered in police files or the relevant courts;
5. The applicant is under investigation for a criminal offense.

SECURITY VETTING

The security vetting to ensure that a natural person as a firearm license applicant is not a danger to the public order and safety, and consequently fulfils the requirements to receive consent for a firearm license, is regulated by the court and the Kosovo Police, who both issue confirmations regarding this matter.⁶² The confirmation that a natural person has or has not been convicted of a criminal or minor offence is issued by the court. The confirmation regarding Article 10, items 1.3 (on whether the natural person is registered on any list of the relevant authorities for frequent and excessive consumption of alcohol or narcotic drugs or psychotropic substances, for domestic violence, or for violence in an educational institution or at the workplace) and 1.4 (on whether the natural person is under investigation for a criminal offense), is issued by the police. These confirmations are essential for the approval of firearm acquisition/licenses and serve as proof that the natural person does not have a registered domestic violence record with the police. The confirmation is then submitted to the Ministry of Internal Affairs together with the application and other relevant documentation. The official records of the natural person are kept by the police and the courts and a background investigation is conducted before issuing permission to purchase a firearm. This background investigation does not entail the consideration of any sources beyond the confirmations issued by the court and the police to assess the applicant's criminal file, police records, and past violations. The Law on Weapons specifies that if a natural person represents a danger to public order and/or it is determined that there is a risk of his/her committing domestic violence then the application for a firearms license will be terminated and not approved by the MIA. The applicant has a right to appeal the decision of the DPS to the appeal commission in a period of fifteen days from the issuance of first instance decision.

Despite these provisions to restrict access to firearms if there is a history of domestic violence, there are evident challenges throughout the process that impact the ability to ensure security in this regard.

1. Under Article 10 item 1.3, regarding the danger of public order and safety, it is specified that the natural person is considered a danger to the public order if circumstances show that firearms may be misused, such as if a person is registered on a list of the Kosovo Police for domestic violence. However, it should be mentioned that a great number of domestic violence disputes go unreported and thus unregistered on the lists of relevant authorities that would be examined during security vetting. For example, according to the OSCE-led Survey on Well-being and Safety of Women, only 2% of victims in Kosovo contacted the police following the

61] See, for example: the Law on Kosovo Police and the Law on Regular Courts, available at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2806>

62] Article 10.2 of the Law on Firearms, Law no. 05/L -022, Official Gazette/ No. 25 / 19 AUGUST 2015. Retrieved from: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11018>

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most serious incident committed by a current partner, 10% by a previous partner, and 9% by a non-partner.⁶³ That cases of domestic violence are underreported in Kosovo was indicated in the Action Plan to Implement Resolution 1325, 2013-2015.⁶⁴ One of the reasons listed as to why cases are underreported is that domestic violence is considered a private matter that should be dealt with inside the household.⁶⁵ Such underreporting of violence to institutions could present a major challenge to effectively preventing domestic violence perpetrators from gaining possession of a firearm.

2. Currently the relevant legislation does not have any provision mandating that interviews be conducted with current and former partners of the applicant and/or other family members, including neighbours, to determine the presence of circumstances which could indicate that firearms may be misused, including for domestic violence.
3. The Law on Weapons does not mandate consultation with the Centre for Social Work when checking for a history of domestic violence, while it does envisage the involvement of the Centre for Social Work when checking if applicant has not been deprived of, or is not limited in, the capacity to act.
4. In addition, the Law on Weapons does not establish the obligation of the responsible institution to notify current or former spouses or current or former partners of the applicant about any submitted applications for the acquisition of firearms.
5. The Law on Weapons does not specifically prescribe that checks should be carried out to determine if the applicant has been issued a protection order or an emergency protection order related to domestic violence acts.

PHYSICAL AND MENTAL ABILITY

The Law on Weapons requires that physical and mental ability for possession and carrying of firearms be certified with a medical certificate. Under Article 9, it is specified that the medical certificate cannot be older than one year. The Ministry of Health together with the MIA determines the type and the scope of this medical examination. Furthermore, under the Ministry of Health's Administrative Instruction no. 04/2013 On the Issuance of Health Certificates, the Clinical University Centre as well as private and public hospitals are authorized to issue the respective health certificates, including those for firearms licenses.⁶⁶ The health certificate for mental and physical capacities for the issuance of firearm licenses requires the following analyses: a) a blood lab analysis; b) medical commission examinations including representatives of neuropsychiatry and/or a psychiatric specialist; c) examination by a neurologist; d) examination by a specialist of family medicine; and e) examinations by specialists of otorhinolaryngology and ophthalmology. The registry of the copies of health certificates issued is kept by the institutions issuing the certificates.

Furthermore, current provisions provide insufficient assessment of the psychological and physical capacities of an applicant to carry firearms with respect to domestic violence. The reason for this is that although health professionals and specialists receive professional training on signs of psychological issues, the risk that a person might commit, or has committed, domestic violence is hard to identify through a quick medical examination and interview with the above-mentioned commission members. Experienced women's organizations, including representatives of shelter staff, who work with victims of DV could also be engaged to offer trainings for examinations as licensed by the MLSW in evaluating applicants regarding the risk of domestic violence.⁶⁷

63] See: the OSCE Led Survey on Violence against Women: Well-Being and Safety of Women, Report at a Glance OSCE 2019. Available at: <https://www.osce.org/files/f/documents/5/b/418913.pdf>

64] Action Plan to Implement Resolution 1325, "Women, Peace and Security" 2013-2015. p.19, retrieved from: https://www.peacewomen.org/sites/default/files/kosovo_nap_2014.pdf. Currently Kosovo does not have a new Action Plan to Implement Resolution 1325.

65] Ibid.

66] See: Ministry of Health AI 04/2014, available at: <https://msh.rks-gov.net/wp-content/uploads/2013/11/Udhezim%20Administrativ%2004-2013.pdf>

67] According to the Law on Family and Social Services, NGOs licensed by the MLSW may provide services to victims of DV and GBV in Kosovo.

PROFESSIONAL EXAM FOR A LICENCE TO ACQUIRE A FIREARM

The Law on Firearms, in Article 12, requires that applicants for firearms license must pass an official exam. The goal of this official exam is to test the knowledge of the natural person on the proper use and maintenance of firearms for categories B and C. The exam is composed of the theoretical part and the practical part.

The purpose of the theoretical part of the exam is to verify the applicant's knowledge on the possession and storage of firearms and ammunition, the use of the firearm, and on providing first aid.

The purpose of the practical part of the exam is to test the applicant's knowledge about the safe use of firearms and ammunition, including for target shooting. Before taking the official exam, the applicant is obliged under Administrative Instruction (MIA) no. 10/2016 On the Theoretical and Practical Firearms Handling Training, the Official Exam, and the Validation of Instructors' Qualification to complete the relevant theoretical and practical training. This training is conducted by licensed legal entities and the lecturing and training consists of five lecturing sessions (45 minutes in duration) for each part of the professional training program.

The theoretical program includes: knowledge related to legal provisions of the Law on Weapons, the Law on Public Peace and Order, the Criminal Code, and other relevant laws; delivery of first aid; theoretical knowledge on the safe handling of firearms and ammunition; and the manual on shooting range standard procedures. In addition, the practical program⁶⁸ includes: practical knowledge on the safe handling of firearms and ammunition; blank and live firing, at range; target firing and shooting range actions skills; and first aid drills.

After the applicant has successfully finished the training programs and has undergone the official exam with satisfactory results, a certificate of completion is issued to the applicant.

For preventative purposes, a useful and responsive addition to the trainings would be to include the Law against Domestic Violence in the theoretical program.

LICENSE RENEWAL

The requirements for license renewal for the possession and carrying of firearms by natural persons are the same as for the approval of the application for a firearm license, as regulated by the Law on Weapons. The requirements for license renewal for the possession and carrying of firearms by natural persons are the same as for the approval of the application for a firearm license, as regulated by the Law on Weapons. Thus, whether a legal entity or natural person, the applicant will be subject to the (above) firearm licence approval procedure, including security vetting and the provision of the relevant physical and mental capacities certifications. Consequently, this means a firearm license will not be renewed if there is an instance of domestic violence in the records for the applicant, as prescribed by Article 17. Article 17 stipulates that if the applicant is not able to fulfil the criteria set forth by Article 7, which establishes that instances of domestic violence disqualify the applicant from obtaining a firearm license, then they are also forbidden from acquiring a renewal.⁶⁹ The license holder is obliged to start the procedure for the renewal of a license prior to the license's expiration date. Firearm license for hunting and sport shooting are valid for five years (Articles 21, 22, Law on Weapons). In terms of duration, the license for hunters and sport shooting is five times longer than for private security workers.⁷⁰ This shows that for private security workers the psychological examination is repeated significantly more frequently than for other natural persons. The psychological examination for hunting and sport shooting is repeated every five years. The duration of this period requires further scrutinization in order to ensure a sufficient and regular check-up timeline for assessing potential psychological changes in the behaviour of license holders.

68] Ibid.

69] Article 17, item 3 from the Law on Weapons, Law no. 05/L-022. Retrieved from <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11018>

70] Regulation No. 04 /2012-MIA on Weapon Carrying.

PROCEEDINGS OF RELEVANT INSTITUTIONS IN CASES OF DOMESTIC VIOLENCE IN RESPECT TO FIREARMS, INCLUDING LICENSE REMOVAL

The Law on Protection from Domestic Violence (Law no. 03/L -182) requires that the police confiscate any item which has been used to commit the act of violence or which is suspected to be used in the repetition of such violence (Article 10). The Law on Police stipulates that a police officer has the power to temporarily seize and sequester an item in order to prevent imminent danger to persons or property (Article 21). Furthermore, the Law on Police establishes the right of police to conduct preventive searches at their own initiative to protect public order, life, and property, provided that such actions do not exceed the limitations of the Criminal Procedure Code (Article 22). The Criminal Procedure Code also establishes the right of police to conduct a provisional security search of a person if it is deemed that there is a danger that he/she is carrying a weapon or a dangerous object that can be used for attack. This provisional security search may be carried out only by the police and only by members of the same sex of the person being examined. In all these provisions, the police are not specifically mandated in responding to reports of domestic violence to conduct security searches for firearms or check the relevant records to determine if the reported perpetrators of domestic violence possess a firearm license. This leaves open the possibility of any firearms present (including illegal firearms) going unnoticed by the police in responding to cases of domestic violence. This requirement is addressed in the relevant SOPs and other relevant criminal proceedings.

The Standard Operating Procedures for Protection from Domestic Violence, adopted in 2013,⁷¹ outline the responsibilities of the main institutional mechanisms in Kosovo to assist and protect victims of domestic violence. The SOPs are an important tool in enhancing a coordinated approach among the primary agencies mandated to assist victims of domestic violence. They also provide detailed guidance for conducting risk assessment after an incident of domestic violence, including an analysis of the potential presence of firearms. The risk assessment should be conducted by the police to protect victims, children, and other witnesses. According to the SOPs, the police shall check if firearms are involved. It does not, however, specifically state under the checklist that any firearms found to be present should be seized. The SOPs identify low, medium, and high indicators of risk to be used by the police in qualifying the risks for each situation, as per the table shown below:

Table 1:

Low, Medium, and High Indicators to be identified by the Police when assessing the risks for victims of DV:

Low risk indicators	Medium risk indicators	High risk indicators
<ul style="list-style-type: none"> - the perpetrator does not possess a weapon - the perpetrator has never used weapons against the victim - the perpetrator has no history of arrests and has a reasonable fear of the police - the perpetrator had never before threatened the victim - the perpetrator has not committed sexual violence against the victim - the perpetrator is not a consumer of alcohol or drugs - the perpetrator has no history of mental disorder - the perpetrator has no knowledge of routine activities conducted by the victim during the day, e.g., working hours, place of work, children's school schedule, etc. - the perpetrator had not previously exercised control over the victim - the perpetrator finds it difficult to find the victim if he/she leaves the home - the perpetrator has never attempted to commit suicide or threatened the victim to do so - the perpetrator has exercised pressure on the victim to have intercourse with him/her but the victim was not forced to do so - the perpetrator and victim are not in a long-term relationship, therefore the perpetrator does not have all the victim's information - the victim thinks that the perpetrator would not harm him/her even if he/she were to leave. 	<ul style="list-style-type: none"> - the perpetrator possesses a weapon - the perpetrator has had occasional problems with the police but has never been arrested - the perpetrator has threatened to harm the children if the victim were to abandon him/her - the perpetrator has harmed pets - the perpetrator has threatened the victim to injure him/her if he/she were to leave the home - the perpetrator has damaged house furniture - the perpetrator knows the victim's friends well and may easily find the location of the victim if he/she were to run away - the perpetrator has friends in the police and shows no fear of the police - the perpetrator often forces the victim to have intercourse and is aggressive during intercourse - the perpetrator consumes alcohol or drugs - the perpetrator has threatened to commit suicide if the victim were to leave - the perpetrator has mental problems, his/her behaviour does not appear to be normal, and/or he/she is aggressive and violent with others. - other 	<ul style="list-style-type: none"> - the perpetrator has threatened the victim with a weapon - the perpetrator has been arrested multiple times - the perpetrator shows no fear of the police and attacks the victim in their presence too - the perpetrator checks every daily activity of the victim and knows every detail on the victim - the perpetrator does not allow the victim to see anyone, including her/his family - the perpetrator beats the victim and children - the perpetrator threatens the victim that he/she will hurt the children if the victim were to leave the home - the perpetrator abuses children sexually - the perpetrator is aggressive and harms the victim during intercourse and/or forces him/her to have intercourse in the presence of others (e.g., children) - the perpetrator has harmed the victim when he/she has left the home and attacked persons with whom the victim has stayed - the perpetrator is able to find the victim easily if he/she leaves the home - the perpetrator is a member of the police - the perpetrator is alcohol and/or drug dependent - the perpetrator speaks about his/her plans for suicide - the perpetrator has made suicide attempts - the perpetrator has a mental disorder and does not use medication - other

Quoted directly from SOPs 2013, page 74.

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The SOPs clearly take into account the risk of firearms and define different levels of risk depending on whether a perpetrator possesses firearms or not and on whether the perpetrator has threatened the victim with a weapon or not. The police should also fill in the Basic Data Form based on this assessment. Based on the SOPs and the Basic Data Form, which consists of five pages of itemized cues/questions requiring information, the police should conduct the risk assessment. The Basic Data Form contains a query as to whether a weapon has been involved in the incident and whether it has been seized, as well as a query about whether the perpetrator has threatened the victim with a weapon and if he/she has been arrested in the past.⁷² It remains to be evaluated as to whether, and to what degree, the police follow this risk assessment in practice.

The SOPs also provide advice and procedures for the development of the Security Plan for the victim of domestic violence, including the involvement of shelters when needed, with the support of the Police and CSWs, particularly in cases involving children. Furthermore, they provide guidance for victims when planning to leave the home after an incidence of domestic violence. **The SOPs also state that victims should, especially in the case of firearms being in the house,** take care to: a) go into a room or space with an exit; b) stay away from rooms without exits and those where there might be weapons (e.g., kitchen, bathroom, garage); c) stay in a room with a telephone in order to call the police, a friend, or neighbours; and d) call the police if there is a weapon in the house.

CSOs have reported that risk assessments by the police are usually done just once, when the victim reports the crime, and not in detail, while commonly follow-up is not done sufficiently to update the risk assessments as a case evolves.⁷³ In addition, it has been reported⁷⁴ that the risk assessment for the victim is often not conducted appropriately in line with the requirements of the SOPs. Moreover, in a recent ex-officio report by the Ombudsperson's Institution of Kosovo on the right to live free from domestic violence,⁷⁵ the recidivism data base within the KP has been observed as not being kept regularly. Accordingly, the Ombudsperson Institution has recommended that the KP should adequately keep a registry of emergency calls for recidivist cases of domestic violence as well as act appropriately by prioritizing domestic violence cases.⁷⁶

The SOPs do not provide any guidance for prosecutorial proceedings, which have the main say in investigating and deciding on DV cases. However, this issue has been further defined under the Kosovo Prosecutorial Council Standard Operating Procedures (SOPs) in Increasing Efficacy in Treating Cases of Domestic Violence, adopted in 2017.⁷⁷ The respective SOPs define the role and responsibility of the prosecutorial agencies when addressing cases of domestic violence by requiring that all basic prosecution agencies appoint specialized prosecutors to handle cases of DV. It should be noted that these SOPs focus specifically on domestic violence, while other cases of gender-based violence are not addressed. The SOPs do not specifically refer to risks or dangers related to firearms. However, the SOPs do establish the office of the prosecutor as the primary responsible institution for monitoring and overseeing continuous risk assessment for the victim, including considering the former violent history of the perpetrator or any former criminal proceedings held against the perpetrator.⁷⁸ Specialized prosecutors appointed to deal with domestic violence cases are also obligated to collect data for monitoring and enabling the understanding of the dynamics of domestic violence cases. The data should incorporate: a) the number of protection orders sought by victims; b) the number of protection orders issued; c) any reasons for the refusal of protection orders sought; d) criminal records of domestic violence cases initiated; e) the results of the cases; f) any sanctioning policies issued; and g) any cases of recidivism recorded. The data are reported on quarterly basis to the Chief Prosecutor in the respective prosecutor's office as well as to the Kosovo Prosecutorial Council (KPC) twice a year. The possession of firearms is not included

72] See: Annex 3, 8, and 9 of the SOP's.

73] See, for example: the KIPRED Report "Access to Justice for Victims of Gender-Based Violence in Kosovo: Ending Impunity for Perpetrators, Qosaj-Mustafa, Ariana and Morina Donjeta, 2018. Available at:

74] See Qosaj-Mustafa, Ariana and Morina, Donjeta for KIPRED "Accessing Justice for Victims of GBV in Kosovo: Ending Impunity for Perpetrators," p. 21, 2018. Available at: https://www.cshr-ks.org/wp-content/uploads/2019/03/Accessing_Justice_for_Victims_of_Gen-Based_Violence_in_Kosovo_Ending_Impunity_for_Perpetrators_820425.pdf

75] See: <https://www.oik-rks.org/2019/08/01/raport-me-rekomandime-ex-officion-rasti-nr-346-2019/>

76] See: OI Report Ex Officio, Case no. 346/2019. Available at: <https://www.oik-rks.org/en/2019/08/01/report-with-recommendations-ex-of-ficio-case-no-346-2019/>

77] See: Kosovo Prosecutorial Council Regulation no. 763, 2017.

78] SOPs for Increasing Efficacy in Treating Cases of DV, 2017, Kosovo Prosecutorial Council, Article 4. Available at: <https://prokuroria-rks.org/assets/cms/uploads/files/Dokumente%20Publikime/KPK/Plane%20te%20Punes/Procedurat%20Standarde%20te%CC%88%20Veprimit%20pe%CC%88%20Ngritjen%20e%20Efikasitetit%20ne%CC%88%20Trajtimin%20e%20Rasteve%20te%CC%88%20Dhune%CC%88s%20ne%CC%88%20Familje.pdf>

as an element to be reported on under the reporting criteria of the SOPs and certain other relevant procedures.⁷⁹

Additionally, according to the Law on Protection from Domestic Violence, a set of measures is issued by courts when issuing protection orders. The measures foreseen include the confiscation of items, i.e., the items by means of which the act of violence has been committed. The Criminal Code also regulates the sanctions for the unauthorized ownership, control, or possession of firearms by stipulating a fine of up to seven thousand and five hundred (7,500) EUR and/or imprisonment of up to five (5) years, under Article 366. It also regulates sanctions for the use of a firearm or a dangerous instrument in a threatening or intimidating manner (Article 367 of the Criminal Code of Kosovo) by stipulating a fine of up to ten thousand (10,000) EUR and/or imprisonment of one (1) to ten (10) years; in such cases, the weapon/firearm shall be confiscated. These all represent preventive measures addressing firearm misuse as they sanction the illegal possession of firearms and manipulation of their markings.

SEQUESTRATION, REVOCATION, AND CONFISCATION OF FIREARM LICENSES

The confiscation of firearms is regulated under the Law on Weapons, and the legal mandate for the Police to confiscate firearms in cases of domestic violence is regulated by the Law on Police, the Criminal Procedure Code and the Law on Peace and Order. Police officers have the right to seize property used as means to commit a minor offence qualified as a misdemeanour even if the perpetrator did not perpetrate the offence but demonstrated intent to commit the offence. They may sequester such objects until a decision has been made by the competent authority under Article 19 of the Law on Peace and Order. Under Article 75, on provisional security searches, of the Criminal Procedure Code, the Police have the right to search persons for firearms if it is deemed that there is a danger that the person in question is in possession of a firearm that can be used for attack. Furthermore, the Law against Domestic Violence, under Article 10, regulates the Protection Measure of the Confiscation of an Item, stipulating that firearms or other relevant items can be confiscated as a protection measure for the victim of domestic violence. The item can be the object with which the violence was committed or one that is suspected of being used to repeated violence. Regarding cases of domestic violence, there is no specific provision regulating or mandating the confiscation of firearms in possession of other family members, even of those living in the same house, which leaves open the possibility and danger of perpetrators having access to these firearms, which could be used to commit further domestic violence.

The Law on Weapons further stipulates, under Article 36, that any firearm licenses, firearms, and ammunition are to be seized and sequestered in cases when the natural person and legal entity are not in compliance with the criteria defined in this law.

Article 37 of the Law on Weapons prescribes that firearm licenses and licenses shall be revoked in cases: when the validity of the license has expired and the permission to hold the license has not been extended; a final decision for the revocation of the license is issued; when a residence license has expired; or in case of the death of the license holder.

A party unsatisfied with the resulting situation may submit an appeal against a decision for the revocation of a license at the Appeals Commission within fifteen (15) days from the day of the receipt of the decision.

The license, and firearms shall be confiscated after a decision for confiscation is issued by the court has concluded: that the person in question has lost the legal capacity to hold a firearms license; that the holder (natural person) has lost the requisite physical and mental capacity; that the person has been convicted with a final decision for a criminal or minor offence from Article 10, paragraph 1 (danger to public order and safety); that the justifiable reasons for issuing the license do not exist anymore; or that the holder is not in compliance with the criteria defined by the Law on Weapons.

As is evident, the Law on Weapons explicitly refers to danger to public peace and safety as grounds for confiscation, including in instances when the holder is convicted for a criminal and minor offence. Domestic violence thus represents grounds for firearm license and firearm confiscation, given that there is a final court decision. As the Law specifies that the confiscation shall only be processed when the courts convict the holder of a criminal or minor offence, this could leave open the possibility

2. LINKAGES BETWEEN FIREARMS AND DOMESTIC VIOLENCE

for a domestic violence perpetrator to have possession of the firearm(s) until the final court decision is made.

As for legal entities, their licenses and licenses shall be revoked when the license or license has expired, has not been extended, or if the legal entity ceases to exist. Licenses and licenses issued to legal entities shall be confiscated if the reasons for issuing of the license cease to exist or if the legal entity is not in compliance with the criteria defined by the Law.

If a revocation of a license is executed, the natural person or legal entity cannot submit an application for a firearm license for another five years. When the decision for revocation of a license is taken, the relevant firearm(s), its parts, and ammunition shall be seized and sequestered.

FIREARMS STORAGE

Article 44 of the Law on Weapons and *Administrative Instruction no. 08/2016 On the Minimum Technical Conditions for the Storage of Firearms, Parts of Firearms, and Ammunition* regulate the storage of firearms by natural persons and legal entities such as security services, shooting ranges, and businesses selling firearms.⁸⁰ Article 44 of the Law on Weapons prescribes that natural persons and legal entities possessing a licensed firearm shall store the firearm(s), parts of the firearm(s), and ammunition separately, in a locked drawer, safe, or in a special room which is technically secured. Furthermore, authorized legal entities are obliged to maintain a record of all their firearms, parts of the firearms, and ammunition by also appointing an official representative of the legal entity responsible for the keepings of such records. The competent person of a legal entity is obliged to inform the MIA if the contacts for the official representative change. The representative is also obliged to oversee the manner of storing firearms.

The MIA has further determined, in *Administrative Instruction no. 08/2016*, the general conditions for the storage of firearms, parts of firearms, and ammunition, with Article 4 defining the conditions for firearms storage as follows: 1.1. firearms shall be stored empty of ammunition and clearing of ammunition shall be done in a safe place; 1.2. firearms and firearms parts shall be stored separately from ammunition; 1.3. the keys to the cabinets, safes, and other places for the storage of firearms, firearms parts, and ammunition shall be stored in a safe place and shall be accessible only to authorized or responsible persons; and 1.4. ammunition shall not be left inside the magazine of the firearms during storage.⁸¹ Authorized officer has the right to inspect at any time the fulfilment of minimum technical requirements and criteria defined by this administrative instruction. It should be further determined as to whether such regulations effectively prevent access to firearms by other members of the household where firearms are kept. There is no specific mention, for example, of preventing children or other family members from accessing firearms.

Kosovo's Strategy and Action Plan against Domestic Violence (2016-2020)⁸² did not deal specifically with firearms and refers to the SOPs on Protection from Domestic Violence, adopted in 2013, as relevant documents in addressing the safety and security needs of the victims. It does not contain any direct reference to the use or risk of use of firearms in domestic violence cases. The roles of all relevant actors for prevention, protection, rehabilitation/reintegration, and coordination in domestic violence cases are defined under the Action Plan, which is aligned with the requirements of the Istanbul Convention. Towards implementing the Action Plan, a Coordinator against Domestic Violence has been appointed since 2013. The Coordinator is by default appointed from the position of the Vice-Minister of Justice and is to report annually on the progress monitoring report of the implementation of the Action Plan. The Coordinator has also initiated, with the support of the UN Women office, a database to collect and track cases related to domestic violence with the input of the KP, prosecutor offices, the courts, shelters, Centres for Social Work (CSWs), and

80] Administrative instruction (MIA) no. 08/2016 On the Minimum Technical Conditions for the Storage of Firearms, Parts of Firearms, and Ammunition. Retrieved from: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=12747>

81] Administrative instruction (MIA) no. 08/2016 On the Minimum Technical Conditions for the Storage of Firearms, Parts of Firearms, and Ammunition. Available at <https://gzk.rks-gov.net/actdetail.aspx?actid=12747>

82] See: Strategy and Action Plan against Domestic Violence (2016-2020). Available at: <https://abgj.rks-gov.net/assets/cms/uploads/files/Publikimet%20ABGJ/Strategjia%20Komb%C3%ABtare%20e%20RK%20p%C3%ABr%20mbrojtje%20nga%20dhuna%20ne%20familje%202016-2020.pdf>

victims' advocates. The data do not specifically include information on the use of firearms in domestic violence cases.

**Good Practices:
Australia and Canada⁸³**

Legislative reforms with respect to ownership and licensing undertaken in Canada and Australia correlate with a decrease in the overall homicide rate (15% in Canada and 45% in Australia) and particularly in the female homicide rate (45% in Canada and 57% in Australia) (IPU, CHD, 2007, p. 86), which indicates that

there is a strong link between introducing tougher firearm control measures and a decrease in the lethality of the outcome in cases of intimate partner violence.

One of the most recognized measures in this regard is spouse notification, which was first introduced in Canada and has been widely promoted. Spouse notification was included in the application process for acquiring a license to possess a firearm (Possession and Acquisition License - PAL). Namely, if an individual wishes to obtain a firearm license, her/his current and former spouses (last 2 years) are to be notified. Even though the spouse's consent is not required, in the case that a spouse has any suspicions, a second revision of the application will be initiated. Furthermore, a PAL application will be reviewed in the case of any report of crimes, including domestic violence.

This builds upon previously adopted measures as a response to the lethality of firearms in the domestic context and the restriction of access to firearms to perpetrators of domestic violence such as: the strengthening and improvement of the screening process and that 'extensive background checks are conducted on every person who applies for a license and continuous monitoring of firearm licensees is intended to ensure that license eligibility is immediately reviewed when there is a domestic violence incident'.

Legislative reforms in Australia have aimed at addressing, among other issues, the use of firearms in the context of domestic violence and numerous provisions have been introduced. The Firearms Act (1996) introduced the mandatory suspension of an adult firearm license if the registrar believes on reasonable grounds that the licensee has been charged with, committed, or threatened to commit a domestic violence offence. A license is automatically suspended under the Domestic Violence and Protection Orders Act 2008, if the Magistrates Court makes an interim protection order, unless the court orders otherwise. Under this section, the Magistrates Court may also order the seizure of a license, and the seizure and detention of firearms and ammunition, for the period of the interim order. A license is also automatically suspended under the Domestic Violence and Protection Orders Act 2008 (s 80 - Firearms and emergency orders) if a judicial officer issues an emergency order. The officer may also order the seizure of a license, and the seizure and detention of firearms and ammunition, for the period of the emergency order. If the registrar suspends a license under this section, the registrar must give written notice of the decision to the licensee.

2.3. SECURITY SECTOR PERSONNEL

KOSOVO POLICE

The Law on Police, Law no. 04/L-076, under Article 27, prescribes that a police officer is authorized to possess and carry an official firearm issued by the police. The police officer is authorized to use a firearm only when strictly necessary and only up to the level intended to achieve the legitimate police objective. In addition, the use of firearms shall be proportional to the degree of danger and to the seriousness of the offence in the situation.

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The use of firearms by police is further regulated by *Administrative Instruction no. 03/2012 for the Use of Firearms by Police Officers*. Police officers are authorized to keep, carry, and use the firearm and official ammunition in fulfilling the legal objectives of the police (Article 4). The Instruction extensively defines situations in which a police officer is authorized to use an official firearm against another person and mandates and regulates the reporting of any firing. A police officer who in carrying out his/her official duties uses his/her official weapon has the obligation to immediately report the using of the weapon to his first supervisor in the commanding structure of the police (Article 11). The police establish a special committee who deal with all cases of firing an official firearm by a police officer.

Administrative instruction No. 02/2018 on Work relation in Kosovo Police in Article 5 on recruitment regulates that candidates for employment in Police should meet required standards of suitability in accordance with determined standards of the Code of Ethics, not to be convicted for any criminal act, or not to be initiated any criminal procedure against them which is prosecuted according to official duty – which is also applicable to domestic violence. The Code of Ethics aims to increase awareness of the police officers on the importance of respecting ethical principles and strengthen the ethical and moral behaviour in practice (Article 5), but it does not contain any explicit reference to domestic violence.

KOSOVO SECURITY FORCES

The right to carry firearms for Kosovo Security Forces (KSF) Officers is regulated by Regulation (MoD) no. 05/2019 for the Carrying and Use of Firearms by Kosovo Security Forces.⁸⁴ The Regulation establishes the rules and procedures for the transfer, use, storage, and maintenance of firearms and ammunition of the Kosovo Security Forces. The members of the Kosovo Security Forces, under Article 4 of the Regulation, have the right to carry and use firearms for the fulfilment of duties during working hours. According to Article 15 the authority for granting a firearm license to KSF officers falls upon the relevant KSF Commander or a person authorized by the Commander. KSF members must be equipped with the authorization for weapon possession, which proves that they are authorized to carry personal weapons according to the Intelligence Directorate in the Ministry of Defence.

KSF members shall fulfil certain criteria; they must complete the relevant courses and training on using arms and security standards set by KSF which are not specified in this regulation. Furthermore, under item 3 it is stipulated that commanders are responsible for ensuring that relevant members possess the adequate capacities to carry and use firearms. Senior Officers of the KSF shall be issued consent to carry a firearm according to special permission issued by the KSF Commander, upon the recommendation of the Intelligence Directorate for the MoD, in cooperation with the Department of Intelligence. These KSF members, as holders of firearms, are responsible for the proper storage of the firearms in a safe or must return any such firearms to the KSF warehouse, not allowing for the carrying of firearms out of the relevant duty station(s). Any movement of firearms has to be registered under Article 10 of the Regulation, while every receipt, acquisition, and submission of firearms from/to the barracks, under Article 7 of the Regulation, shall be registered to ensure proper storage of firearms and ammunition.

The vetting conducted for KSF members is regulated by the procedure carried out for candidates when applying for the job posting, and it is required that the court issue a certificate confirming that they are not under any investigation for a criminal offence and that they have not been sentenced in the past for any criminal offence. No other specific vetting on domestic violence is currently in implementation.

KOSOVO INTELLIGENCE AGENCY

The carrying and use of firearms by personnel of the Kosovo Intelligence Agency is regulated by the Law on the Kosovo Intelligence Agency, Law no. 03/L-063.⁸⁵ Article 22 of the Law prescribes that KIA employees are only granted the right to carry firearms for a specific duration of time under necessary circumstances upon the decision of the KIA Director and if it is established that there is a reasonable

84] Retrieved from: https://mod.rks-gov.net/repository/docs/Rregullore_MM_Nr_05-2019_per_bartjen_dhe_perdorimin_e_armeve nga_Forca_e_Sigurise_se_Kosoves.pdf

85] Law no. 03/L-063 on the Kosovo Intelligence Agency, https://www.aki-rks.org/HTML_ENG/2008_03-L063_en.pdf

necessity for the personal protection of the respective KIA personnel. Otherwise, KIA employees are not allowed to carry firearms. The employee needs to follow a procedure to be granted authorization. The firearm authorization should be: (i) detailed in writing; (ii) granted for a limited duration of time; and (iii) subject to the review of the Inspector General.

PRIVATE SECURITY PERSONNEL

The Law on Weapons, in Article 13, stipulates that legal entities providing private security services can acquire consent for the acquisition of a firearm from the competent body. The private security service companies must fulfil the following requirements to be eligible for a license from the MIA to acquire and carry firearms:

- 3.1. possess a business certificate;
- 3.2. a court decision has confirmed that the activity of the legal entity has not ceased or been terminated with a final decision by the competent court;
- 3.3. evidence has been provided by the competent organ that the entity possesses adequate space for the keeping and safe placing of the firearms, parts of firearms, and ammunition;
- 3.4. evidence has been provided for the entity's legitimate exercising of the respective activity;
- 3.5. evidence has been provided that the entity has had at least thirty thousand Euros (30.000€) in turnover within the previous calendar year or that they have an initial budget of over thirty thousand Euros (30.000€) upon the establishment of the activity for legal entities; and
- 3.6. the requisite background verification has been carried out on the applicant entity, its founders, owners, and responsible persons.

Article 14 prescribes that possession of a firearm is limited in no more than one weapon per specialized security worker, as well as up to fifteen percent (15%) of this quantity for replacement purposes in cases of damage or repair. Weapons that are not used during the regular contracts shall be stored in special metal boxes or safe-deposit boxes by the competent body. Management of these weapons is to be carried out according to the relevant legal (or subsidiary legal) acts issued by the competent body.

The Law on Private Security Services⁸⁶ extensively regulates background verification for security workers. The Article 15 stipulates that a background verification will be performed on all applicants prior to issuing a license to act as a security worker. Issuing of a license will be refused by the competent body if the Applicant does not pass the background verification. The Law regulates that the background verification of an applicant will include the criminal background verification but does not specifically mention background checks with respect to the history of domestic violence cases. However, the Law explicitly regulates that specialist security workers such as Close-Protection Officers and Cash-in-Transit Guards who are authorized to carry firearms must fulfil all relevant criteria in line with the Law on Weapons. As explained previously, the Law on Weapons provides for vetting of past domestic violence acts when assessing the approval of a license for every natural person, which is also applicable to employees or private security services (Law on Weapons, Article 10, paragraph 1.3).

The Article 30 of the Law on Private Security Services regulates that private security personnel such as licensed Close-Protection Officers and Cash-in-Transit Guards may be armed only with authorized firearms and only when on duty. They can only use their authorized firearms as a measure of last resort when less extreme means is insufficient to defend themselves or others from an imminent attack on life.

Private security companies, Close-Protection Operatives, and Cash-in-Transit Guards are obliged to inform the police immediately when a firearm has been discharged. In this respect, a security worker who has discharged a firearm may not be released from duty until given permission to do so by the police. Also, every discharge of a firearm by a security worker, whether intentional or unintentional, shall be the subject of an immediate investigation by the police and the findings of such an investigation shall be detailed in a report.⁸⁷ For cases in which the investigation by the police prescribed in paragraph 7 of this Article finds that the discharge of a firearm was not in accordance

⁸⁶] See: the Law on Private Security Services, available at <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2741>

⁸⁷] Ibid.

2. LINKAGES BETWEEN FIREARMS AND DOMESTIC VIOLENCE

with the Law, the security worker will immediately have his/her license revoked (Article 30 of the Law on Private Security Services).

HUNTING AND SPORT SHOOTING FIREARMS LICENSES

Regarding the process for applying for a license for acquiring and holding firearms for hunting purposes, the Law on Weapons does not specify any difference from the process for natural persons applying for a license for acquiring and carrying firearms in general, except in Article 7, item 1.7, which specifies that the applicant should provide proof of regular membership in and be certified as a hunter with a recognized hunter's association to the MIA when applying for a firearm license for hunting purposes. The Law on Hunting makes no specific reference to domestic violence. Article 42 of the Law on Weapons specifies that it is prohibited for hunting or sports firearms to be used outside of an authorized hunting area or civilian shooting ground. If an owner or user of hunting firearms transports the firearms outside of an authorized hunting area or civilian shooting ground, the owner or user shall transport the firearms in an adequate holster and all ammunition shall be stored separately from the firearms. A shooting sport license that allows a natural person to possess a weapon that belongs to B, C and D category only for shooting sport purposes.

FOREST GUARDS

The carrying of firearms and use of firearms by forestry sector employees (forest guards) is regulated by Administrative Instruction no. 09/2013 On Uniforms, Coat of Arms, Identification Cards, and Official Weapons Possession.⁸⁸ Under Article 11 of the Instruction, forestry sector employees are allowed to carry firearms to exercise responsibilities and official duties and should acquire the requisite medical certificate for their physical and mental capabilities in accordance with the Law on Weapons. Under Article 14 of the Instruction, it is specified that forestry employees can carry firearms only during working hours and the ammunition they utilize should be authorized by a report of the relevant municipal forestry authority. It also prescribes that the use of firearms is forbidden in public places and strictly forbidden where the life of people may be risked (Article 15). This Administrative Instruction, however, does not specifically mention domestic violence or prescribe a procedure for dealing with the employee if they have committed domestic violence.

COLLECTION FIREARMS LICENSES

Under Article 20 of the Law on Weapons, a license for the acquisition of collection weapons may be issued to a natural person upon request, if the conditions from Articles 7, 41, and 42 of this Law are fulfilled. Therefore, the applicant shall not pose danger to public peace and order and safety, and consequently there should not be circumstances in place which could indicate that firearms could misuses, including domestic violence. A weapons collection license is issued with a duration of 10 years. If a weapon collection consists of more than 25 pieces of weapons, the collector shall attach to the request a written statement stating that he/she will allow free review and control of these firearms by the competent body and that he/she fulfils the requirements for the storage of firearms. The carrying and use of collection firearms outside of the permanent residence or dwelling of the collector are prohibited. Collection firearms may be transported outside of the licensed residence or dwelling only for the repair, exhibition, or sale of the collection firearms based on a license to move a firearm issued by the competent body. Supplying, possessing, and manufacturing ammunition for collection firearms are prohibited (Law on Weapons, Law no. 05/L -022).

3.

RESPONSE TO GENDERED ASPECTS OF FIREARM DEMAND, USE, AND MISUSE

3. RESPONSE TO GENDERED ASPECTS OF FIREARM DEMAND, USE, AND MISUSE

The Small Arms, Light Weapons, and Explosives Control Strategy and Action Plan 2017-2021 envisage the integration of the gender perspective is foreseen primarily in activities related to awareness raising. For example, activity 2.2. of Strategic Objective 2 envisages awareness-raising and advocacy campaigns organized under the lead of the Ministry of Internal Affairs, the Kosovo Police, women in uniform, and in cooperation with CSO's. The strategy also envisages cooperation with the Kosovo Women's Network, an umbrella organization for women's organizations in Kosovo, in implementing the awareness raising activities. It is also proposed that the artistic community in Kosovo be engaged in efforts to increase the awareness of the general population regarding the use of small arms.

PROGRAMME ON GENDER EQUALITY (2020-2024)⁸⁹

The Programme on Gender Equality 2020-2024 (KPGE) is organized around three main pillars: a) Economic empowerment and social welfare; b) Human development, roles, and gender relations; and c) Women's rights, access to justice, and security. Under Pillar 3, the KPGE aims to promote the realization of rights in decision-making, peace, security, and justice, thereby guaranteeing the achievement of gender equality. Under the Strategic Objective 3, item 3.10 envisages the implementation of *research on the impact of small arms on the security of men and women from the gender perspective*. This activity should be conducted by end of quarter 4 of 2022, under the lead of the Agency for Gender Equality and the Ministry of Internal Affairs.⁹⁰ Currently, the KPGE envisions that this research should also be done in cooperation with civil society organizations and donors.

In addition, the KPGE envisages a wide range of activities specifically addressing the status of women in the security sector (under Specific Objective 3.3 - Creating a safe and non-discriminatory environment for women and men in the security sector), which is further elaborated in the next section. In addition, an advisory board within the security sector focusing on issues related to Women, Peace and Security should be established under the lead of the KP and KSF and supported by the AGE and civil society organizations.⁹¹

The KPGE also envisages the development of a program that addresses gender-based violence in schools, which could serve as an important entry point for addressing gendered concerns related to small arms.

The Strategy and Action Plan on Community Policing 2017-2021,⁹² in line with the vision of the Kosovo Police, aims to be effective, efficient, and trustworthy, and provide qualitative services in order to guarantee a safe environment through sustainable partnership with inhabitants and the community.⁹³ The Strategy emphasizes increased interaction with communities through Municipal Community Safety Councils, Local Public Security Committees, the business community, and cultural and sports communities, including women-focused NGOs and pre-university education institutions. The diversity of representation of such communities, with special emphasis on ensuring diverse ethnic, religious, cultural, livelihood, and gender representation, are considered among the most important assets for sustainable community policing.⁹⁴ The Strategy does not specifically refer to domestic violence issues, however it does call for local community representatives to identify safety issues based on various issues identified locally. Ensuring diversity in the gender representation and composition of safety councils is envisioned. Further evaluation of gender representation within the safety councils and security committees, of additional gender-related topics, and of the implementation of policies in practice should be carried out.

The Strategy confirms that even though the police is the primary relevant agent, it is not the only institution responsible for crime prevention and fighting crime and it calls for the police to interact with inhabitants and other competent institutions. Improving the trust of and cooperation with inhabitants is recognized as essential, implying that the involvement of women is essential.⁹⁵

89] At: <https://abgj.rks-gov.net/assets/cms/uploads/files/Publikimet%20ABGJ/Strategjia%20Komb%20C3%ABtare%20e%20RK%20p%20C3%ABr%20mbrojtje%20nga%20dhuna%20ne%20familje%202016-2020.pdf>

90] See: page 120 of the KPGE, available at: <https://abgj.rks-gov.net/assets/cms/uploads/files/Programi%20i%20Kosov%20C3%ABs%20p%20C3%ABr%20Barazi%20Gjinore%202020-2024%20-%20ANGLISHT.pdf>

91] See: KPGE, page 130.

92] See: <https://www.kosovopolice.com/wp-content/uploads/2020/07/3.-Strategy-and-Action-Plan-2017-2021-Community-Policing-.pdf>

93] Ibid, pg. 17

94] Quoted from above, pg. 4.

95] Ibid.

The Strategy also establishes, under sub-objective 1.2, the aim of enhancing and empowering partnerships with security forums, the media, NGOs, and other organizations that are involved in community safety issues. Under activity 1.2.3 the Strategy also envisions the establishment of Local Public Safety Committees, in order to improve the participation of women and youth, and the carrying out of relevant training. It also emphasizes the Strategy's links with other strategic documents, including the Small Arms, Light Weapons and Explosives Control Strategy and Action Plan, as well as community-based problem solving, including the manual for its implementation.

The Intelligence Led Policing Strategy 2013,⁹⁶ was developed to implement a unique and sustainable system of intelligence-led policing and its efficient and effective use of resources. The Strategy provides and calls for a secure environment for all, through the application of modern policing methodology and the enabling of decisions based on intelligence measures.⁹⁷ However, the Strategy does not contain any references to gender equality, women's participation, or other gendered concerns related to firearms. It only refers to other relevant sectoral strategies, including the former Strategy and Action Plan on Control of Small and Light Arms, which expired in 2016.

Youth Strategy 2019-2023: The Youth Strategy and accompanying Action Plan is a comprehensive strategy which aims to improve the situation of young persons aged between 15 to 24, including the involvement of all parties of interest from the institutional actors and non-governmental sectors.

Within the context of this analysis, it is worth mentioning that the strategy aims to provide a healthy and safe environment for young people.

The Strategy also aims to encourage cooperation between organizations whose activities relate to youth, as well as between central and municipal bodies, to help strengthen youth policies and programs.⁹⁸ The Strategy also establishes a specific goal of increasing youth security and related activities. Furthermore, under Strategic Objective 3.2.1, it is planned that comprehensive research into phenomena that affect a safe and healthy environment for youth be carried out.

Under the same objective, the Strategy envisions activities aimed at supporting youth organizations through campaigns, trainings, workshops, debates, and other activities promoting healthy lifestyles among young people, including healthy eating, mental health, the prevention of psychic and physical violence, the use of harmful substances, physical activity, etc. In addition, development of the capacities of central and local institution staff in the youth sector to deal with threats and maintain a safe environment for young people is also planned.

The Strategy does not specifically mention risks posed by firearms or domestic or gender-based violence. However, if a review of the monitoring of the Strategy and any associated amendments are initiated, the Strategy could be seen as a good future entry point for addressing gender related concerns, including firearms misuse, particularly young men's exposure to armed violence, both as perpetrators and victims.

The Health Strategy 2017-2021⁹⁹ refers to risks to mental health, but does not specifically refer to suicides in general, or suicides committed with firearms.

The laws and strategies relevant for gender equality and women's participation provide tools for potential review from the gender perspective and they represent a sound base for the future development and enhancement of the gender mainstreaming of relevant procedures and actions. However, many of the laws and strategies should be cross-cutting and should be reviewed specifically with the purpose of meeting the requirements of the Law on Gender Equality regarding gender mainstreaming.

96] See: Intelligence Led Policing Strategy, at: https://www.kosovopolice.com/wp-content/uploads/2019/10/shqip_anglisht_serbisht_3.pdf

97] Ibid.

98] Available at: https://www.mkrs-ks.org/repository/docs/Strategy_for_Youth_2019-2023.pdf

99] Available at: https://www.kryeministri-ks.net/repository/docs/Strategjia_sektoriale_e_shendetesise_final-nentor_2016_ENG.pdf

4.

GENDER SENSITIVE DATA COLLECTION PRACTICES

The Law on Weapons prescribes that the competent bodies shall maintain records for all requests by applicants for firearm licenses, documents issued, and other necessary documents for implementing provisions of this law or for cooperation with other relevant authorities (Article 67, paragraph 1). In addition, it is stipulated that the competent body is to maintain a computer system that enables authorized authorities to access data on weapons, parts of weapons, and ammunition, including, but not limited to: category, type, model, producer, the place of production, calibre, serial number, and the name of the exporter, importer, and the last known user (Article 67, paragraph 2).

The Law on Weapons also establishes the obligation of the maintenance of evidence by the relevant legal entity. In this regard, the Law on Weapons prescribes that the legal entity *shall maintain the register for all weapons, parts of weapons, and ammunition, and also data on receiving or transferring them authorized within this law*. This includes data that enable the identification and tracking of each firearm, including: category, type, model, producer, place of production, calibre, and serial number, as well as data on the legal entity, including the name and address of any entity that has sold or purchased the firearm, and of the last known user (Article 68, paragraph 2). In addition, hunting and shooting associations, training centres, and other legal entities which possess firearms on the basis of a firearms possession license, such as those recognized as authorized users of hunting areas, shall maintain records of firearms and ammunition, as well as regarding persons to whom they have provided weapons and ammunition for use. (Article 68, paragraph 2).

In addition, it is mandated that data captured through firearm focal points¹⁰⁰ be sex disaggregated. Such data include: the date of the incident, the time of the incident (day/night, day of the week, month), the region and location of the incident, the police station reporting the incident, the brand of the weapon, its type/category, the model of the weapon, its calibre, the country of production, any conversion/modification/etc., of the weapon, its serial number (confidential), its legality/illegality, its confiscation/seizure, any ammunition, the category of ammunition, the producer of the ammunition, the amount of ammunition, the number of perpetrators, the age and sex of the perpetrator(s), the number of victim(s), and the age and gender of the victim(s).

According to the Law on Gender Equality, in Article 5, paragraph 1.8, “gender divisions of all data and collected statistical information shall be recorded, registered, and processed and institutions shall be obliged to submit these data to the Kosovo Agency of Statistics.” This establishes the Kosovo Agency of Statistics as the primary body within the institutional network for overseeing the collection and gender-disaggregation of data from the relevant institutions as well for producing relevant analysis.

The Kosovo Agency of Statistics also generates statistics of convictions of adult persons, including statistics related to the gender of persons accused and sentenced. The last publication, published in 2019, included information related to murder, attempted murder, and the unauthorized ownership, control, or possession of weapons, according to Articles 178 and 374 of the Criminal Code. In light of the new amendments to the provisions regarding domestic violence within the new Criminal Code and also of the reports on the potential use of firearms, these new Article-established offences should also be included in statistics reported by the Kosovo Agency of Statistics, though this has yet to be achieved. Former reports covered general light and grave bodily injuries, without specifying whether they were conducted in a domestic relationship. As such, only data on defendants was gender disaggregated prior to 2019.¹⁰¹ Accordingly, the analysis provided thus far by the Agency of Statistics has been limited in relation to gender disaggregated data on different aspects of firearm misuse, including the use of firearms in domestic violence incidents.

100] See: Guidelines on Establishing a Firearm Focal Point, UNDP SEESAC, p. 22: https://www.seesac.org/f/docs/SALW-Knowledge-Base/Guidelines-on-establishing-a-FFP_ENG.pdf

101] See at: <https://ask.rks-gov.net/media/5680/statistics-of-jurisprudence-for-adult-persons2019.pdf>

5.

ARMS TRADE

Arms Export is regulated by the *Law on the Trade of Strategic Goods, Law no. 04/L-198*,¹⁰² and the *Law on Weapons, Law no. 05/L -022*. These laws are in accordance with EU Regulation no. 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components.

The Law on the Trade of Strategic Goods regulates the export, import, transit, trans-shipment, re-export, and re-transfer of strategic goods, the provision of related services, and the control, supervision, rights, and obligations of parties taking part in the business activities of this field. The Law on the Trade of Strategic Goods is in accordance with EU Regulation No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components. It is also in line with the Council Directive 91/477/EEC on control of the acquisition and possession of weapons amended by Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008. In addition, the Law addresses criteria set by with Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.

The Commission for the Control of Trade of Strategic Goods oversees the trade of strategic goods. The commission is made up of five members and deputy members, one from each of the following institutions: the Ministry for Trade and Industry, the Ministry for Foreign Affairs, the Ministry for Kosovo Security Forces, the Ministry for Internal Affairs, and Kosovo Customs. The Commission's duties consist of the approving, changing, and revoking of licenses for the export, import, and/or transit of strategic goods.

Article 15 of the Law on the Trade of Strategic Goods stipulates that when reviewing an application for export, import, transit, trans-shipment, extra-territorial re-export, re-transfer, or the provision of related services, the Commission for Control of Trade of Strategic Goods is to reject the application if the issuance of the license shall endanger the respect for human rights in the destination country or respect for international humanitarian law in the destination country.

However, the Law does not specifically refer to gender-based violence and violence against women and does not regulate any risk assessment related to gender-based violence. More particularly, the legislation does not explicitly state the risk of conventional arms or other items being used to commit or facilitate serious acts of GBV or serious acts of violence against women and children when conducting export assessment.



V RECOMMENDATIONS



The main findings are laid out in the introductory part of the report. The following are the recommendations developed and applicable specifically to those issues analysed as per the key thematic issues addressed in the report.

Institutions in Kosovo have undertaken a number of substantial reforms in drafting and developing a vast number of laws and policies related to the areas analysed above. The key laws, such as the Law on Weapons, the Law on Protection from Domestic Violence, and the Law on Gender Equality, legislation on security sector personnel, and relevant provisions of the Criminal Code and Criminal Procedure Code provide a solid base for addressing small arms control from the gender perspective in line with international standards.

Nevertheless, in order to further enhance the gender responsiveness of small arms control legislative and policy frameworks, it is necessary to conduct a comprehensive analysis of the implementation of the relevant strategies, policies, and laws, to map challenges in their implementation and develop hands-on guidance to overcome identified challenges. Moreover, this should be carried out through a gendered lens by applying the requirements of the Law on Gender Equality.

This is particularly the case regarding legislative frameworks aiming to prevent the use of firearms in the context of domestic and gender-based violence.

LEGISLATIVE AND POLICY PRECONDITIONS FOR THE INTEGRATION OF THE GENDER PERSPECTIVE AND THE PARTICIPATION OF WOMEN INTO SMALL ARMS CONTROL

- The *Roadmap for a Sustainable Solution to the Illegal Possession, Misuse and Trafficking of Small Arms and Light Weapons (SALW) and their Ammunition in the Western Balkans by 2024* places special importance on gender equality and calls for the full integration of the gender perspective and balanced representation of women in SALW control. In this regard, any revision of the SALW Control Strategy should be in line with this commitment and enable comprehensive and meaningful integration of the gender perspective;
- Establish procedures to ensure balanced representation of women and men in the SALW Commission, as required by the Law on Gender Equality;
- Establish procedures for the participation of gender equality mechanisms, including the Agency for Gender Equality and women focused NGOs, in drafting relevant policies and reviewing strategies, including the SALW Control Strategy;
- Any future revisions and amendments of laws and policies should also address the future implementation of gender budgeting requirements after a specific law on the implementation of gender budgeting is drafted and approved.

LINKAGES BETWEEN FIREARMS AND DOMESTIC VIOLENCE

- Include in Article 2 of the Law on Weapons the definition of domestic violence as contained in the *Criminal Code* and in the *Law on Protection from Domestic Violence* in order to ensure that all forms of domestic violence, such as physical, psychological, sexual, and economic, are considered when security vetting related to “domestic violence” is conducted;
- Include in Article 10 of the Law on Weapons the procedure for verification or obtaining evidence on each of the circumstances stated in Article 10, paragraph 1.3. This is especially important given that high share of domestic violence incidents is left unreported and unregistered on the lists of relevant authorities and thus could not be taken into account during security vetting;
- Adopt specific bylaws regulating security vetting/background checks with respect to domestic violence;
- Include in the Law on Weapons the obligation of the responsible institutions to notify current or former spouses/partners or other close family members about the submission of an application by an applicant for the acquisition of firearms. In case there are any concerns raised by them, a second revision of the application should be initiated;

- Include interviews of family members, colleagues, and/or neighbours during the security vetting of the applicant for a firearm license to determine whether he/she poses a danger to public safety or if there is a risk of his/her perpetrating domestic violence;
- Include the registration form from the Centre for Social Work for past reports of domestic abuse or violent behaviours as an obligatory element for consideration in the process of security vetting of the application for acquiring firearms;
- Amend the Law on Weapons to include explicit reference to court decisions for the issuing of protection orders in cases of domestic violence as grounds for the revocation of the license. Consequently, amend the relevant Article(s) to include such decisions as grounds for revocation;
- Amend MIA Administrative Instruction no. 10/2016 On the Theoretical and Practical Firearms Handling Training, Professional Exam, and Validation of Instructors' Qualification so as to include in the theoretical and practical training, for preventative purposes, trainings on the Law against Domestic Violence in the theoretical program;
- Ensure that risk assessments are made mandatory for every case of domestic violence and that the reports are sent to the prosecutorial agencies, including obligatory continuous follow-up and regular risk assessment reports on whether firearms have been used or reported;
- In the area of private security sector personnel, specific attention should be paid to any past reports of domestic violence incidence by amending the Law on Private Security Services to include these criteria as mandatory elements for consideration in the security vetting process for licenses/licenses for security sector personnel;
- With respect to the storage of firearms, parts of firearms and ammunition, it should be further determined as to whether relevant regulations effectively prevent access to firearms by other members of the household where firearms are kept;
- When developing security vetting procedures build on professionals' experiences in working with victims of DV, including women's organizations and representative staff from relevant shelters. They should be accordingly engaged to provide trainings for those administering examinations licensed by the MLSW in regard to domestic violence cases;
- Both the new SALW Control Strategy and the new Strategy against Domestic Violence should pay specific attention to issues related to domestic violence and the use of firearms in acts of domestic violence.

RESPONSE TO GENDER ASPECTS OF FIREARM DEMAND, USE, AND MISUSE

- Security vetting procedures for Article 10 of Law on Weapons should also include tools for the assessment of the risk of whether firearms could be used in the context of suicide;¹⁰³
- Ensure that the new SALW Control Strategy establishes specific measures to develop preventive mechanisms to address gendered factors fuelling the demand for and misuse of firearms, such as specific masculine gender norms. In doing so, preventive measures should particularly target young men;
- In addition, if a review of the monitoring of the Kosovo Youth Strategy and any corresponding amendments were to be initiated, the Strategy could provide entry points for addressing gender related concerns, including firearms, particularly young men's exposure to armed violence, both as perpetrators and victims;
- Any future Security Strategy review should integrate gender assessment and also the gender perspective in conducting security related analyses, including on the use of firearms in cases related to domestic violence and other forms of violence against women;

- Develop gender sensitive methodology for the monitoring and evaluation of SALW control legislation and policies;
- Further enhance strategic synergies between the SALW Control Strategy and accompanying Action Plan with other relevant strategies, particularly the Kosovo Programme on Gender Equality (2020-2024).¹⁰⁴

GENDER-SENSITIVE DATA COLLECTION PRACTICES

- Any authorized data collection of relevant institutions should be in line with the requirements of the Law on Gender Equality to collect gender disaggregated data;
- The Agency of Statistics should mandate that any reporting on different aspects of firearms by Kosovo institutions also include gender disaggregated data;
- Any future revision of the SALW Control Strategy should call for all future analysis and references to include gender disaggregated data, in line with the requirements of Article 5 of the Law on Gender Equality.

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REFERENCES

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