



Qendra Kosovare për Studime Gjinore  
Kosovar Gender Studies Center

# **ANALYSIS OF THE DRAFT CIVIL CODE PROCESS FROM A GENDER PERSPECTIVE**





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**Kosovar Gender Studies Center (KGSC)** [www.kgscenter.net](http://www.kgscenter.net) has been contributing to gender mainstreaming since 2002 and continuously makes efforts to achieve gender equality in Kosovo. It has been pioneering changes to the discriminatory system, social norms, and double standards, and is very active in monitoring public institutions. KGSC mission is to integrate gender-sensitive analysis, programs, and policies in all sectors of Kosovar society by increasing gender awareness and focus on gender issues, developing gender studies and ensuring the inclusion of gender-sensitive policies through research, policy development, advocacy, and lobbying.

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## Executive Summary

The Draft Civil Code (DCC) of Kosovo represents one of the most ambitious efforts toward legal modernization and alignment with European Union (EU) standards. Conceived to consolidate fragmented laws and enhance constitutional protections, its adoption has been stalled since 2022 due to political resistance, particularly surrounding the regulation of same-sex civil unions. The delay has had significant implications for legal certainty, equality, and the protection of vulnerable populations.

This thematic research explores the broader social and institutional consequences of postponing the adoption of the DCC. Combining legal analysis, literature review, and stakeholder interviews conducted in October 2025, the study examines the barriers that have impeded progress and the resulting effects on women, children, minorities, and LGBTQI+ communities.

Findings reveal that the legislative stalemate has perpetuated systemic inequalities, weakened the rule of law, and undermined Kosovo's progress toward EU harmonization. Key challenges include political manipulation of sensitive issues, limited parliamentary expertise, institutional opacity, and persistent socio-cultural resistance to equality-based reforms.

*The report concludes that adoption of the DCC is critical not only for legal coherence but also for social justice and human rights advancement. The main recommendations include:*

- Integrating same-sex marriage provisions directly into the DCC rather than through a separate law.
- Strengthening civil society's participation in legislative processes.
- Establishing a robust parliamentary code of ethics to prevent discriminatory discourse.
- Ensuring that legal protections for women, children, minorities, and LGBTQI+ persons are clearly embedded within the Code.
- Launching public awareness initiatives to promote understanding and acceptance of inclusive legal reforms.

# Introduction

The Draft Civil Code has been positioned as a cornerstone of Kosovo's legal modernization, aiming to unify fragmented legislation, align domestic law with EU acquis standards, and reinforce constitutional protections for all citizens (Gashi & Preteni, 2020; UN Women, 2024). Despite these objectives, the Assembly of the Republic of Kosovo has yet to adopt it, primarily due to political resistance over Article 1138 regulating same-sex civil unions and the reliance on a separate "special law" for these matters.

Since the initial vote on March 16, 2022, the legislative halt has slowed progress in protecting vulnerable groups, including women, children, and minority populations (UN Women, 2024; Gashi & Preteni, 2020). These delays have reinforced systemic inequalities, leaving critical areas such as family law, property rights, and children's protections partially unregulated or inconsistently applied.

This thematic research examines the social and legal consequences of postponing the adoption of the Draft Civil Code, beyond the debate on same-sex civil unions, and identifies the implications for marginalized populations. It combines:

1. A review of legislative frameworks and secondary literature, including reports from the Ministry of Justice, European Commission, and international organizations.
2. Interviews with key stakeholders, including civil society representatives and government officials, conducted between 14–24 October 2025, providing qualitative insights into contemporary challenges, legislative dynamics, and possible reform strategies.

By integrating legal analysis with stakeholder perspectives, this thematic research highlights the broader consequences of delaying the Draft Civil Code and offers recommendations to advance legislative reform in Kosovo.

# Methodology

This research adopts a qualitative, thematic approach to analyze the implications of delaying the Draft Civil Code in Kosovo. The study is guided by three central research questions:

- 1. Obstacles:** What have been the major obstacles in adopting the Draft Civil Code?
- 2. Impact on vulnerable populations:** How have these delays affected women, children, minorities, and LGBTQI+ communities?
- 3. Strategies for reform:** What amendments or strategies could strengthen legal protections in Kosovo?

## Data Collection

*Data was collected through a combination of:*

### 1. Literature Review:

*A comprehensive review of existing legislation, policy documents, and secondary sources was conducted. Key documents included:*

- Constitution of the Republic of Kosovo
- Draft Civil Code documents and working group reports (MoJ, 2024; Gashi, 2022)
- Reports on gender equality and children's rights (UN Women, 2019; KGSC, 2008)
- European Commission Country Reports (European Commission, 2024 & 2025)
- Academic analyses of Kosovo's legal system and civil law reforms (Gashi & Preteni, 2020; Bytyçi, 2024)
- Ombudsperson's Report and Opinion (OIK, 2022 & 2024)

### 2. Stakeholder Interviews:

*Interviews were conducted between 14 - 24 October 2025 with representatives from:*

- Center for Equality and Liberty (CEL)
- Center for Social Group Development (CSGD)
- Agency for Gender Equality (AGE)
- Coalition of NGOs for Child Protection in Kosovo - KOMF



- Youth Initiative for Human Rights Kosovo (YiHR)
- Ombudsperson Institution of Kosovo (OIK)
- Ministry of Justice (MoJ)

*Interviews focused on three main areas:*

- Participation/contribution in the Draft Civil Code drafting process
- Views on whether the Civil Code would return to the parliamentary agenda and the potential for its adoption under current circumstances
- Perceptions of next steps and strategic priorities

## Data Analysis

*All interviews were recorded, with informed consent from interviewees, for research purposes and analyzed thematically, focusing on recurring issues such as:*

- Legal and political barriers to the Draft Civil Code adoption
- Systemic effects on marginalized groups
- Societal attitudes towards gender and sexual orientation
- Institutional accountability and civil society participation

Triangulation between the literature review and stakeholder interviews was employed to ensure reliability and provide a comprehensive understanding of the issues surrounding the Draft Civil Code.



# **Chronology of the Civil Code**

Kosovo's civil law system has been characterized by fragmentation and inconsistency, shaped by historical, political, and institutional factors. Since the end of the 1999 war, the legal landscape has included a mixture of former-Yugoslav laws, UNMIK regulations, post-2001 national legislation, and a series of ad-hoc "special laws" (Gashi & Preteni, 2020; Gashi, 2022). This pluralistic framework created confusion in legal interpretation, weakened the rule of law, and produced uneven judicial practices (Gashi & Preteni, 2020). Additional challenges, such as limited professional capacity within the legal sector, conflicting legislation, unclear legal provisions, and structural discrepancies within the judiciary, have further hindered the efficient functioning of civil law (ibid).

## **Early Attempts at Codification (2004–2013)**

The first efforts to codify civil law in Kosovo began in 2004, with a focus on unifying property, family, and inheritance laws. These early initiatives were stalled due to Kosovo's uncertain political and legal status, leaving gaps that were temporarily addressed through "special laws" and ministerial regulations (Gashi & Preteni, 2020). Key interim instruments included:

- Books of the Civil Code
- Book on Obligation
- Book on Ownership and Other Real Rights
- Book on Family
- Book on Inheritance

Despite these measures, inconsistencies persisted, particularly in property relations, family law, and children's rights, undermining equal protection under the law.

## **EU-Supported Reform Efforts (2014–2015)**

A major turning point occurred in 2014 with the EU-funded project "Support to the Civil Code property rights" and the subsequent establishment of the State Commission for Drafting the Civil Code in 2015 (MoJ, 2024; Gashi, 2022). This initiative aimed to draft a Civil Code aligned with the EU acquis, strengthen the rule

of law, and improve the legal framework, including obligations law, property law, family law, and inheritance law. The working group, which operated for two years under the leadership of the then-Minister of Justice, Prof. Dr Hajredin Kuçi, carried out several activities that culminated in a draft civil code to be further discussed through a consultation process with relevant stakeholders. (MoJ, 2024) Stakeholders, including civil society organizations, contributed recommendations for women, children, and LGBTQI+ communities. However, some proposals, especially those related to same-sex marriage, were excluded or deferred to “not jeopardize the entire process due to an article” (Nuhui, 2025). According to Morina, they were only included in the consultation process in 2019, when they also had the opportunity to submit their recommendations.

## Legislative Milestones and Standstill (2016–2022)

In 2016, the Ministry of Justice was mandated to proceed with the finalization of the Civil Code. Thus, it established a Working Group to finalize the Civil Code, integrating EU standards and international human rights principles (MoJ, 2024). This Working Group was arranged into four (4) thematic subgroups for drafting specific parts of the Civil Code, such as the General Part, of the Obligations Law, the Property Law and other Real Law, the Family Law and the Inheritance Law, and the Private International Law. By September 2018, a second framework of the Draft Civil Code of the Republic of Kosovo had been established. In 2019, the Ministry of Justice finalized the Draft Civil Code, which was then adopted by the Government in 2022.

Following the legislative procedures, the Draft Civil Code was submitted to the Assembly of the Republic of Kosovo. After the review in the Parliamentary Committees, the Draft Civil Code was put to a vote in the plenary session of March 16, 2022. Out of the 77 Members of Parliament (MPs) present, 28 voted in favour, 29 voted against, 4 abstained, and 16 did not vote at all. Thus, the Draft Civil Code did not pass resulting in indefinite postponement (Morina, 2025; Nuhui, 2025). Political opposition, particularly regarding Article 1138 on registered partnerships between persons of the same sex, whose conditions and procedures were to be regulated by a special law, was the central barrier to adoption.

Stakeholders interviewed for this thematic research consider that misinformation and political maneuvering by parties undermined consensus (Morina, 2025).



Many of the MPs misinterpreted Article 1138 and centered the discussion around it by also using hate speech (Pira, 2025). Similarly, an ex officio report by the Ombudsperson Institution in Kosovo concludes that public statements by some MPs who voted against the Draft Civil Code generated comments filled with hate speech (OIK, 2024). Furthermore, according to several interviewees, some of those parliamentarians lacked sufficient expertise to fully assess the legal and social implications of not approving the Draft Civil Code.

The failure to adopt the Draft Civil Code has left Kosovo with fragmented legislation, creating ongoing challenges for judicial interpretation, legal certainty, and protection of vulnerable populations (Gashi & Preteni, 2020; UN Women, 2024). Since then, the Government has postponed the return of the Draft Civil Code to the Assembly, although it has stated that it has been working on it. (IndeksOnline, 2023). The Draft Code wasn't included in the 2024 legislative agenda. Kosovo held its general elections in February 2025, and to this date, it is operating under a Caretaker Government. The Assembly was only constituted on October 10, 2025.

## Contemporary Challenges and Proposed Amendments

The adoption of the Draft Civil Code faces multiple contemporary challenges, spanning political, social, and institutional dimensions. While it is critical for harmonizing Kosovo's legal framework, adoption has been delayed primarily due to resistance over sensitive socio-legal issues, notably same-sex registered partnerships (Morina, 2025; Pira, 2025; Qelaj, 2025). The European Commission's Kosovo Country Report (2025) considers that the non-adoption of the Civil Code is also impacting gender recognition, and same-sex unions continue not to be recognized. The 2024 Country Report of the European Commission notes that the external pressures have created a complex dynamic as the government seeks to balance international expectations with domestic legislative consensus.

## Political Resistance

Political factors have significantly impeded progress. Stakeholders reported that political parties often used the Draft Civil Code as a tool for political bargaining rather than prioritizing legal reform (Morina, 2025; Nuhiu, 2025). Furthermore, opposition MPs and certain government factions raised objections to Article 1138, which regulates same-sex civil unions, resulting in voting failure (Morina, 2025;

Gusia, 2025). Parliamentary committees were sometimes mismanaged, with individuals holding positions that contradicted human rights principles, exemplifying institutional hypocrisy (Morina, 2025). This is specifically addressed towards the Committee on Human Rights, Gender Equality, Victims of Sexual Violence during War, Missing Persons and Petitions during the last legislature.

**Despite constitutional guarantees (Article 37 of the Constitution) of marriage equality (Qelaj, 2025), the political debate framed same-sex civil unions as controversial, creating deliberate delays that hindered the adoption of the Draft Civil Code in its entirety.**

## Social and Cultural Barriers

Kosovo's socio-cultural environment also presents obstacles to legal reform. There are widespread societal misconceptions about LGBTQI+ rights and gender equality's impact on legislative decisions (Morina, 2025; Pira, 2025). Religious and conservative groups, such as the Historians of Deçan (IndeksOnline, 2022), exert influence over parliamentary votes and public discourse, affecting the acceptance of progressive provisions (Gusia, 2025; Kelmendi, 2025). Finally, although civil society organizations are active, they face limitations in advocacy and influence due to fragmented coordination and political constraints (Kelmendi, 2025; Pira, 2025).

## Institutional and Procedural Challenges

The interviewees also spoke about various institutional and procedural challenges. According to Nuhiu and Qelaj, the legislative process lacks transparency, limiting civil society participation and public oversight. Furthermore, MPs often lack technical legal expertise, requiring external advice to evaluate complex provisions (Gusia, 2025; Morina, 2025). Additionally, Morina says that "special laws" to regulate same-sex unions have introduced further procedural uncertainty, leaving rights unprotected without clear implementation mechanisms.

Addressing these challenges is essential not only to advance the Draft Civil Code but also to reinforce human rights, legal certainty, and equality in Kosovo. Failure to integrate these recommendations risks perpetuating systemic inequality and legal ambiguity (UN Women, 2024; KGSC, 2008).

# **Consequences of Postponement for Vulnerable Groups**

The indefinite delay in adopting the Draft Civil Code has significant social and legal repercussions, particularly for vulnerable populations such as women, children, minorities, and LGBTQI+ communities. The absence of a unified legal framework perpetuates systemic inequalities and limits the protection of fundamental rights (Gashi & Preteni, 2020; UN Women, 2024).

## **Women's Rights and Economic Vulnerability**

Despite existing legislation on gender equality and family law (Family Law No. 2004/32; Law on Gender Equality No. 05/L-020), women in Kosovo continue to face economic disadvantage and unequal access to property rights (Gashi & Preteni, 2020; Fetiu, 2024; Dhëmo & Vrbaški, 2024). The Draft Civil Code introduces significant reforms to address these disparities: automatic equal division of marital property; recognition of non-monetary contributions in marriage and cohabitation; and improved protection in cases of divorce and inheritance (MoJ, 2024; Xhafaj, 2022)

The postponement of these reforms perpetuates gender-based economic inequality and limits women's agency in household and property decisions (Fetiu, 2024).

## **Minority Rights**

Kosovo's ethnic minorities, including Roma, Ashkali, Egyptian communities, and Kosovo Serb, face systemic exclusion due to a lack of civil documentation; discrimination in education and employment; and limited participation in public and political life (OSCE, 2012; UN Women, 2024)

The Draft Civil Code aims to reduce these barriers by providing clearer legal recognition of property, family, and inheritance rights, ensuring alignment with con-

stitutional and international human rights standards (MoJ, 2024). The failure to adopt the Draft Civil Code continues to leave minority populations vulnerable to institutional neglect and social marginalization.

## Children's Rights and Protections

The Draft Civil Code introduces stronger protections for children, including raising the legal marriage age to 18; extending foster care and supervision for vulnerable youth up to 26 years old; and strengthening parental rights and protection mechanisms for children without parental care (MoJ, 2024; Xhafaj, 2022; KGSC, 2008). Delays in adoption maintain gaps in legal safeguards, exposing children, particularly from marginalized groups, to early marriage, limited foster care opportunities, and insufficient protection against abuse (OSCE, 2025; UN Women, 2019).

## LGBTQI+ Rights

The postponement of the DCC disproportionately affects LGBTQI+ communities, as same-sex marriage provisions remain unregulated and dependent on an uncertain “special law” (Morina, 2025; Blenda, 2025). This creates legal uncertainty regarding family formation, inheritance, and social recognition, while also perpetuating societal stigma and institutional homophobia. Stakeholders, including the Ombudsperson (Qelaj, 2025) and civil society organizations, emphasize the importance of integrating these rights directly within the Draft Civil Code to prevent discriminatory treatment.



## Recommendations

The thematic research and stakeholder interviews reveal a consensus on key measures needed to ensure the Draft Civil Code effectively protects rights and addresses the needs of vulnerable populations. These recommendations focus on legislative inclusivity, institutional accountability, and the engagement of civil society.

- **Integrate Same-Sex Marriage within the Draft Civil Code:** Stakeholders emphasized that same-sex marriage provisions should be incorporated directly into the Draft Civil Code rather than regulated through a separate “special law,” which risks indefinite delays and legal uncertainty. Integration ensures consistency with constitutional guarantees and international human rights standards and avoids discriminatory treatment of LGBTQI+ communities.
- **Strengthening Civil Society Participation:** Civil society organizations (CSOs) played a crucial role in advocating for vulnerable groups throughout the DCC drafting process. Recommendations include:
  - Formal mechanisms for CSO involvement in drafting and monitoring the Code
  - Inclusive consultation processes that bring together women’s rights groups, LGBTQI+ organizations, child protection entities, and minority advocacy groups
- **Improve Parliamentary Ethics and Accountability:** Interviews highlighted deficiencies in parliamentary conduct, particularly regarding hate speech and discriminatory behavior. Recommendations include:
  - Finalizing a Code of Ethics for MPs that addresses hate speech, discrimination, and abuse of parliamentary immunity
  - Establishing clear sanctions for violations
  - Promoting awareness among MPs of existing constitutional and legal protection for all citizens, including marginalized groups



- **Address all Vulnerable Populations:** The Draft Civil Code must comprehensively protect women, children, minorities, and LGBTQI+ individuals. Key proposals include:
  - Recognizing equal property rights for women and equitable inheritance laws
  - Ensuring foster care and child protection measures extend up to age 26
  - Clarifying minority rights in terms of civil registration, property access, and social participation
- **Promote Public Awareness and Social Acceptance:** To overcome socio-cultural barriers, stakeholders recommend:
  - Educational campaigns to inform the public about the Draft Civil Code and its provisions for vulnerable populations
  - Engaging religious and community leaders in dialogue to foster social acceptance and reduce opposition based on misinformation or prejudice
- **Ensure Coordinated Governmental Action:** Effective implementation requires collaboration across ministries, including the Ministry of Justice and Ministry of Finance, Labour and Transfers. Stakeholders emphasized the need for joint ownership and clear accountability to avoid fragmentation.

## Conclusions

The Draft Civil Code represents a pivotal instrument for legal modernization, harmonization, and the protection of human rights in Kosovo. Its adoption is essential to replace the fragmented civil law system, which has persisted since 1999, composed of legacy Yugoslav laws, UNMIK regulations, post-2001 legislation, and ad hoc “special laws”. The prolonged delay in adoption continues to create legal uncertainty, undermine rights, and disproportionately affect vulnerable populations, including women, children, minorities, and LGBTQI+ communities.

The Draft Civil Code introduces significant reforms, including the equal division of property, strengthened child protection mechanisms, recognition of non-monetary contributions in marriage, and measures to protect minority and LGBTQI+ rights to marry and to respect private and family life. However, political resistance, particularly surrounding Article 1138 on same-sex civil unions, has hindered the legislative process, revealing systemic homophobia and institutional deficiencies.

Stakeholders consistently emphasize the importance of integrating same-sex marriage provisions within the Draft Civil Code, strengthening civil society participation, improving parliamentary ethics, and ensuring that all vulnerable populations are fully considered in the legal framework.

The delay in adoption has practical, social, and legal consequences. Women remain economically disadvantaged, children face gaps in legal protection and foster care, minorities experience systemic exclusion, and LGBTQI+ communities continue to lack recognition and protection under the law. These impacts underscore the urgent need for adoption and the integration of stakeholder-informed amendments to the Draft Civil Code.

In conclusion, the Draft Civil Code is not merely a technical codification of civil law, but a vital instrument for promoting equity, social justice, and the rule of law in Kosovo. Its adoption will unify the legal framework, align domestic law with constitutional and international human rights standards, and ensure the rights of all citizens. Stakeholder engagement, legislative inclusivity, public awareness, and ethical governance are essential for ensuring that the Draft Civil Code fulfills its transformative potential. Delaying its adoption further risks perpetuating systemic inequality, legal uncertainty, and societal marginalization.



## Interviews

**Arbër NuhIU:** Executive Director, Center for Social Group Development (CSGD)

**Blendë Pira:** Legal Researcher & Program Coordinator, Youth Initiative for Human Rights Kosovo

**Blert Morina:** Executive Director, Center for Equality and Liberty (CEL)

**Donjetë Kelmendi:** Executive Director, Coalition of NGOs for Child Protection in Kosovo – KOMF

**Edi Gusia:** Chief Executive Officer, Agency for Gender Equality, Office of Prime Minister

**Genc Nimoni:** Senior Adviser and Chief of Cabinet, Ministry of Justice, Government of Kosovo

**Naim Qelaj:** Ombudsperson, Institution of the Ombudsperson



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