

Research Article

DISCRIMINATION AGAINST NON-MAJORITY COMMUNITIES IN KOSOVO: PRACTICAL INSIGHTS ON THE ROMA, ASHKALI AND EGYPTIAN EXPERIENCE

Adelina Rakaj, Melos Kolshi*, Aleksandra Klich and Keriman Sadikay

ABSTRACT

Background: Despite a progressive constitutional and legal framework that guarantees equality and prohibits discrimination, Roma, Ashkali, and Egyptian communities in Kosovo continue to face systemic and multifaceted discrimination in nearly every aspect of public and private life. These communities, although constitutionally recognised and protected under both domestic and international standards—including the European Convention on Human Rights and the Framework Convention for the Protection of National Minorities—remain among the most marginalised groups in Kosovo. Legal instruments such as the Law on Protection from Discrimination and the Law on the Protection and Promotion of the Rights of Communities and their Members aim to safeguard these communities, yet the gap between legal guarantees and the practical realisation of rights remains substantial. Socioeconomic exclusion, limited access to education, health care, housing, and justice, as well as widespread prejudice and institutional neglect, contribute to the persistence of discrimination, particularly in the post-conflict and transitional governance context of Kosovo.

Methods: This study employs a multidisciplinary methodological approach, combining normative legal analysis with empirical data and case study evaluations. Legal analysis focuses on constitutional guarantees, statutory protections, and case law from both domestic and international courts, including the Constitutional Court of Kosovo and the European Court of Human Rights. Empirical data are drawn from the National Platform for Anti-discrimination measures, institutional reports, court verdicts, and civil society monitoring. The case study method is used to highlight documented instances of discrimination, ranging from hate speech and denial of public services to employment discrimination and violations of the right to education. Through document and content analysis of legislation, official decisions, and human rights reports, the study investigates the disjunction between law and practice, aiming to identify systemic patterns and shortcomings.

Results and conclusions: Findings indicate that while Kosovo's legal and institutional frameworks formally provide robust protections against discrimination, their implementation is weak and inconsistent. Marginalisation of the Roma, Ashkali, and Egyptian communities remains deeply entrenched due to inadequate enforcement of legal norms, limited institutional responsiveness, and low public awareness among the communities themselves. Case studies illustrate forms of discrimination, including housing denial for returnees, restriction of peaceful assembly, hate speech leading to violence, and institutional bias in employment. Reports reveal that fear of retaliation and lack of trust in institutions inhibit reporting, while accountability for perpetrators—particularly within public institutions and among private actors—remains rare.

The establishment of mechanisms such as the National Platform for Anti-Discrimination measures represents a positive step, yet its reach and impact are constrained by insufficient resourcing and promotion.

The study concludes that legal guarantees must be supplemented by targeted, community-specific awareness campaigns, strengthened institutional accountability, and affirmative state measures to combat structural inequality. Without political will, sustained oversight, and inclusive policymaking, discrimination will remain a lived reality for these communities. Kosovo must transform its legal commitments into practical safeguards that ensure dignity, equality, and full participation for Roma, Ashkali, and Egyptian communities in all spheres of public life.

1 INTRODUCTION

According to the latest population census, Kosovo is home to 8,730 Roma, 16,207 Ashkali, and 10,581 Egyptians. Based on those statistics, the Roma population constitutes 0.55 per cent of the population, Ashkali 1.02 per cent, and Egyptians 0.67 per cent.¹

From 1999 until 2007, Kosovo was governed by the UN Mission. After the declaration in 2008, Kosovo adopted and ratified its constitutional system of governance. The 2008 Kosovo Constitution includes guarantees for the protection of the rights of non-majority communities.

Chapter III of the Constitution outlines a separate normative-constitutional system for the position of ethnic groups, religious, and cultural (non-majority), which in the constitutional system of the Republic of Kosovo, are referred to as communities. Moreover, the Kosovo Constitution includes numerous provisions that guarantee safeguarding human rights as well as strong anti-discrimination principles, including non-discrimination on ethnic grounds.²

1 Kosovo Agency of Statistics, *Population and Housing Census in Kosovo 2024: First Final Results* (KAS 2024).

2 Constitution of the Republic of Kosovo (adopted 9 April 2008, amendment 24 February 2016) <https://www.constituteproject.org/constitution/Kosovo_2016> accessed 25 March 2025.

Given the favourable position of constitutional and legal infrastructure for anti-discrimination measures, regardless of the specific rights of non-majority communities, Kosovo's institutions have taken proactive measures to guard the Roma, Ashkali, and Egyptian communities against discrimination. These measures include designing a national platform for anti-discrimination measures, which serves as a mechanism to report discrimination cases.³

This study aims to analyse the discrimination faced by these communities in Kosovo by addressing the following research questions:

1. What is the legal position of Egyptian, Ashkali, and Roma communities in Kosovo?
2. How are legal acts implemented in practice?
3. What challenges do the Egyptian, Ashkali, and Roma communities face in Kosovo?

2 METHODOLOGY

This research employs a multidisciplinary methodological approach, combining legal analysis with empirical evidence to comprehensively examine the protection and treatment of the Roma, Ashkali, and Egyptian communities in Kosovo. It integrates both normative and practical perspectives, focusing on the implementation of legal provisions in accessing services and institutional practices.

To assess the formal legal status of these communities and the guarantees provided through anti-discrimination measures, the study uses the normative legal method. This includes a detailed examination of Kosovo's constitutional and legislative framework, as well as the incorporation of international human rights standards into domestic law. The analysis focuses on identifying the general legal principles and institutional mechanisms established to safeguard the rights of non-majority communities.

In parallel, the analytical method is used to evaluate the practical application of these legal norms, critically assessing how institutions at both central and local levels respond to discrimination cases and enforce legal protections. Reports and data from the institutions monitoring human rights reflect the level of implementation and institutional engagement.

Furthermore, the case study method explores specific instances of discrimination reported by members of the Roma, Ashkali, and Egyptian communities. These cases—selected from documented complaints and court decisions—provide valuable insights into the lived experiences of these communities, revealing institutional patterns, enforcement gaps, and the responsiveness of relevant authorities.

3 Government of the Republic of Kosovo, *National Anti-Discrimination Platform for Roma, Ashkali and Egyptian Communities* (Office for Good Governance, Office of the Prime Minister 2022) <<https://raportodiskriminimin.org>> accessed 25 March 2025.

Complementing these approaches, the study also employs a document and content analysis, focusing on official reports, legal documents, institutional decisions, and academic literature. This method enables the identification of key trends, challenges, and policy developments related to non-majority communities in Kosovo.

This combined approach provides a robust foundation for evaluating the effectiveness of Kosovo's anti-discrimination framework and formulating recommendations for its improvement.

In alignment with the outlined methodology and the analytical context of this paper, the following methods were used:

The legal analytical method is applied when analysing the constitutional and legal framework regarding the protection of the rights of Roma, Ashkali and Egyptian non-majority communities. This method also encompasses analysis of international acts and judicial decisions of the European Court of Human Rights (ECtHR).

The comparative method is employed within the section on the elaboration of practices in European countries relating to legal policies and protection from discrimination.

The case study method entails a detailed analysis of discrimination cases of the Roma, Ashkali and Egyptian communities in Kosovo. These cases elucidate the practical manifestations of discrimination toward these non-majority communities in Kosovo and the measures that the competent institutions have taken.

The statistical method, which is applied during the presentation of concrete statistics, showing the number of cases, the number of members of the non-majority Roma, Ashkali and Egyptian communities discriminated against, the number of institutions involved in discrimination, the time at which the discrimination occurred, etc.

By combining all these methods, the study provides a clear and nuanced assessment of the extent and nature of discrimination against the Roma, Ashkali and Egyptian communities, as well as the measures taken by institutions to combat discrimination against these communities.

3 LITERATURE REVIEW

A brief overview of minorities in the Balkans—and in Kosovo in particular—reveals numerous challenges that cannot be resolved simply or simultaneously. These challenges are not necessarily linked to the status of ethnic processes or the specific differences among communities, particularly Roma, Ashkali, and Egyptians, but rather to issues of ethnogenesis and the historical development of these communities. This perspective is

emphasised in the study *Identity Formation among Minorities in the Balkans: The Cases of Roma, Egyptians, and Ashkali in Kosovo*.⁴

Each Balkan state has established the status of non-majority communities, including the Roma, Ashkali, and Egyptian communities, with Kosovo being no exception. The constitutional position of the Roma, Ashkali, and Egyptian communities in Kosovo is generally linked to the broader framework governing non-majority communities within the country's constitutional system. The rights of non-majority communities in Kosovo stem from Chapters II and III of the Constitution, which grant these communities special rights, as highlighted by authors Bajrami and Muçaj.⁵ These special rights are also afforded to the Roma, Ashkali, and Egyptian communities and are rooted in the guarantees provided by the Ahtisaari Package. The Ahtisaari Package—a document which laid the foundation for Kosovo's declaration of independence—served as a guiding framework for the content of Kosovo's Constitution, particularly regarding the rights of non-majority communities. Appropriately, the authors refer to the Ahtisaari Package, in general terms, as “Kosovo's Achilles' heel”⁶ due to the significant constitutional obligations it imposes to protect non-majority communities.

As mentioned above, the Roma, Ashkali, and Egyptian communities were already recognised as constitutional communities even before Kosovo declared independence and adopted its Constitution. As highlighted by Shala, Gega, and Berisha, “the Constitution of Kosovo recognises the Framework Convention for the Protection of National Minorities (1994), the European Convention for the Protection of Fundamental Human Rights and Freedoms (1950), and the European Charter for Regional or Minority Languages (1992) as integral parts of Kosovo's legislation.”⁷

Despite this comprehensive legal and institutional framework, the Roma, Ashkali, and Egyptian communities in Kosovo continue to face systemic discrimination across all spheres of life. These include inadequate education, access to health services, reconstruction of damaged property, decision-making processes, and involvement in repatriation programs.⁸

4 Elena Marushiakova and others, *Identity Formation among Minorities in the Balkans: The Cases of Roms, Egyptians and Ashkali in Kosovo* (Minority Studies Society Studii Romani 2001) 13.

5 Arsim Bajrami and Florent Muçaj, *E drejta Kushtetuese* (Universiteti i Prishtinës “Hasan Prishtina” 2018).

6 Petrit Nimani and others, ‘The Constitutional and Legal Position of National Minorities in Kosovo: Ahtisaari Package and the Privilege of Minorities’ (2023) 6(4) Access to Justice in Eastern Europe Journal 148-50, doi:10.33327/AJEE-18-6-4-a000406.

7 Sabiha Shala, Gentiana Gega and Emirjeta Berisha, ‘The Non-Majority Communities’ Rights in Kosovo: Implementation of the Right to Employment and Education’ (2023) 9(2) Journal of Liberty and International Affairs 531, doi:10.47305/JLIA2392716sh.

8 Mădălina Cocoşatu, ‘The Role of Ethnic Minorities within the Government Systems of Kosovo’ (2012) 5(1) Acta Universitatis Danubius 111.

A central concept in understanding this discrimination is anti-Gypsyism—a term that refers to the manifestation of both individual expressions and acts, as well as institutional policies and practices of marginalisation, exclusion, physical violence, devaluation of Roma cultures and ways of life. This form of racism manifests in the devaluation of Roma culture and identity, hate speech directed against Roma and other individuals or groups perceived, and social stigmatisation. It echoes a long history of persecution, including during the Nazi era and continues to today as “Gypsies.” This leads to the treatment of Roma as an alleged foreign group and associates them with a series of degrading stereotypes and distorted representations, constituting a specific form of racism.⁹

Studies have revealed that anti-gypsyism, prejudices, discrimination, and cultural inferiority about the Roma, Ashkali, and Egyptian communities are still present in Kosovo. Two indicators demonstrating this are high unemployment rates and low involvement in education.¹⁰ Based on the current situation, the Roma, Ashkali, and Egyptian communities continue to be the most vulnerable and discriminated against in Kosovo, particularly with a significant increase in hate speech against Roma.¹¹

The Roma, Ashkali and Egyptian communities are discriminated against in several aspects and influenced by several factors. Regarding their limited integration into political life, it is estimated that several factors influence them, including lack of stability and unity, factions, and external influences within these parties, which prevent them from increasing community participation, integration and social-economic development.¹²

A high degree of discrimination for the Roma, Ashkali, and Egyptian communities also lies in the realisation of the right to education. This is because the non-majority communities live in bad economic conditions, which impacts their access to education, as a fundamental right for their development.¹³

9 Iulius Rostas, *Antigypsyism: Causes, Prevalence, Consequences, Possible Responses: Report of the Committee of experts on Roma and Traveller issues (ADI-ROM)* (Council of Europe 2022) 20.

10 Goran Miletić, *The Wall of Anti-Gypsyism: Roma, Ashkali AND Egyptians in Kosovo* (Civil Rights Defenders 2018) 5-6.

11 *ibid* 7.

12 Gezim Visoka, ‘Political Parties and Minority Participation: Case of Roma, Ashkalia and Egyptians in Kosovo’ in *Political Parties and Minority Participation* (Friedrich Ebert Stiftung 2008) 153.

13 Maliqe Mulolli-Jahmurataj, ‘Education Policies in Pre-University Education of the Republic of Kosovo for Non-Majority Communities of Roma, Ashkali, and Egyptian’ (2020) 4(1) *Prizren Social Science Journal* 57, doi:10.32936/pssj.v4i1.143.

4 RESEARCH RESULTS AND DISCUSSION

4.1. Legal Framework for Anti-Discrimination Measures of the Roma, Ashkali, and Egyptian Communities in Kosovo and Its Content

The Kosovo Constitution provides advanced provisions regarding anti-discrimination measures, based on international standards.¹⁴ Similarly, Article 22 of the Constitution of Kosovo has defined the international instruments that are directly applicable to the constitutional system of Kosovo, regardless of other constitutional provisions.¹⁵ Even Article 57.2 of the Constitution of Kosovo determines that every member of the community has the right to be treated without discrimination.

In addition to the Kosovo Constitution, which provides a strong basis for the rights of communities and the protection of human rights, Kosovo has also adopted laws which defend the rights of communities against discrimination. One of the basic laws that serves as a core foundation for anti-discrimination measures is Law No. 05/L-021 on Protection from Discrimination, approved in 2015.¹⁶

Article 1.1 of the Law on Protection from Discrimination in Kosovo states that “...*the purpose of this law, among other things, is to establish a general framework for preventing and combating discrimination, including those based on ethnicity...*”¹⁷ Additionally, the Law on Anti-discrimination measures has also defined its scope in a wide range of issues in which it is applied, including the issues regarding ethnic origin.¹⁸

Based on Law No. 05/L-021, the competent bodies for anti-discrimination measures are the Ombudsperson, the Courts, and the State Prosecutor when discrimination cases constitute a criminal offence.¹⁹ The law grants all parties the right to file a complaint with the Ombudsperson if they believe they have been subjected to discriminatory treatment.

Likewise, the law provides a distinct legal pathway through a separate lawsuit dedicated to discrimination cases. These cases are brought before competent courts, with the burden of proof resting on the respondent.²⁰ Courts are obliged to deal with discrimination cases promptly.²¹

14 Constitution of the Republic of Kosovo (n 2) arts 7, 24.

15 *ibid*, art 22.

16 Law of the Republic of Kosovo No 05/L-021 ‘On the Protection from Discrimination’ [2015] Official Gazette 16/35.

17 *ibid*, art 1.1.

18 *ibid*, art 2.

19 *ibid*, arts 12, 14, 16, 17.

20 *ibid*, arts 12, 13, 20.

21 *ibid*, art 16.9.

In all cases, actions resulting in discrimination that constitute criminal offences are treated in accordance with the current Criminal Code.²² The Criminal Code of Kosovo identifies numerous criminal offences that include ethnical characteristics in their content, including inciting discord and intolerance, genocide, violation of the equal status of citizens and inhabitants of the Republic of Kosovo, etc.²³

One of the laws that offers distinct anti-discrimination measures for the Roma, Ashkali, and Egyptian communities is the Law on the Protection and Promotion of the Rights of Communities and their members in Kosovo. This law, in Article 9.2, defines that “the Republic of Kosovo shall develop public employment programs and other initiatives, in addition to specially targeted measures, aimed at overcoming direct and indirect discrimination against persons belonging to communities. Special consideration shall be given to improving the situation of Roma, Ashkali, and Egyptian communities.”²⁴ This law treats the Roma, Ashkali, and Egyptian communities with special consideration to protect them from discrimination.

In line with the legal framework, it is worth noting that the Kosovo Constitutional Court has addressed the issue of protection from discrimination in light of Article 24 of the Constitution of Kosovo. In this regard, the Constitutional Court's jurisprudence has already defined the meaning of this right and given the respective criteria for whether equality before the law is respected to a certain extent.

The Constitutional Court's judgment in Case No. KO203/19 has determined two criteria to validate, in each case, whether a different treatment is unequal and arbitrary when interpreting Article 24 of the Constitution of the Republic of Kosovo and Article 14 of the European Convention on Human Rights. In this regard, the Constitutional Court states that “the Court considers that, for the purposes of interpreting Art. 24 of the Constitution and the Art. 14 of the ECHR, a difference of treatment, in similar or analogous circumstances, is unequal and arbitrary if: 1) it has no objective and reasonable justification; in other words, if it does not pursue a legitimate aim, and 2) if there is not a reasonable relationship of proportionality.”²⁵

Regarding the discrimination against the Roma, the ECtHR, in the case of *D.H. and Others v. The Czech Republic* (Application No. 57325/00), para. 182 emphasises that the Roma, as a result of their history and constant uprooting, have become a specific type of disadvantaged and vulnerable non-majorities; therefore, they require special protection. This case

22 *ibid*, art 17.

23 Code No 06/L-074 ‘Criminal Code of the Republic of Kosovo’ [2019] Official Gazette 2/1, arts 141, 142, 190.

24 Law of the Republic of Kosovo No 03/L-047 ‘On the Protection and Promotion of the Rights of Communities and their Members in Kosovo’ [2008] Official Gazette 28/65, art 9.2.

25 Case No KO203/19 (Constitutional Court of the Republic of Kosovo, 9 July 2020) para 174 <<https://gzk.rks-gov.net/ActDetail.aspx?ActID=29923>> accessed 25 March 2025.

represents an obligation for the state of Kosovo, based on Article 53 of the Constitution, which obliges our state to interpret all actions in harmony with the decisions of the ECtHR. In fact, according to this ECtHR case, the Roma should be given special attention, both in regulatory policies and in cases of special decisions.²⁶

4.2. Implementation of International Standards for Protection from Discrimination in Kosovo, Including Those of the European Union

Kosovo is a state with a consolidated democracy, which, in Article 7 of its Constitution, among other things, promotes the principle of non-discrimination as a value. The 2008 Constitution of Kosovo guarantees a strict application of international standards for the protection of human rights, incorporating nine international instruments in Article 22 that protect human rights, including the European Convention on Human Rights (ECHR), which is directly applicable in the Kosovo constitutional system.²⁷ Another important element in the Constitution of Kosovo is the fact that all public institutions, when it comes to human rights, must implement and interpret them, based on the decisions of the ECtHR.²⁸

In terms of protecting the Roma, Ashkali, and Egyptian communities from discrimination, Kosovo's direct implementation of a considerable number of international instruments—including the ECHR and decision of the ECtHR—constitutes a value that influences the legal mechanisms for protection from discrimination of the Roma, Ashkali and Egyptian communities.

In general, discrimination against the Roma, Ashkali and Egyptian communities tends to focus on racial elements, including skin colour, which distinguishes these non-majority communities. In terms of racial discrimination, and based on the aforementioned points, Kosovo, with the application of international instruments under Article 22 of the Constitution, has solid grounds for combating this type of discrimination. In addressing racial discrimination, primary reference must be made to the International Convention on the Elimination of All Forms of Racial Discrimination, a document directly applicable in the Republic of Kosovo. Article 1 of the Convention clearly defines racial discrimination as follows:

*“Any distinction, exclusion, restriction or preference based on race, colour, descent or ethnic or national origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life (emphasis added)”.*²⁹

26 *DH and Others v The Czech Republic* App no 57325/00 (ECtHR, 13 November 2007) para 182 <<https://hudoc.echr.coe.int/fre?i=001-83256>> accessed 25 March 2025.

27 Constitution of the Republic of Kosovo (n 2) art 22.

28 *ibid*, art 53.

29 International Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965 UNGA Res 2106 (XX)) art 1 <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>> accessed 25 March 2025.

With respect to racial discrimination, as the most widespread form of discrimination against the Roma, Ashkali and Egyptian communities in Kosovo, it should be noted that Kosovo also implements European Union directives. In fact, the current anti-discrimination legislation in Kosovo is based on EU Directive 2000/43/EC of 29 June 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.³⁰

Point 13 of the directive states:

“To this end, any direct or indirect discrimination based on racial or ethnic origin in relation to the areas covered by this Directive shall be prohibited throughout the Community. This prohibition of discrimination shall also apply to third-country nationals, but shall not cover differences of treatment based on nationality and shall be without prejudice to the provisions governing the entry and residence of third-country nationals and their access to employment and occupation”.

Point 16 stresses the importance of protecting all natural persons from discrimination on the grounds of racial or ethnic origin. In the context of supplementing and amending the LPD in Kosovo, regarding the aspect of protection from discrimination on racial and ethnic grounds, it is important to highlight point 19 of the directive, which states that all persons who are victims of discrimination on racial or ethnic grounds must have access to adequate means of legal protection. To ensure effective legal protection, relevant organisations or associations must be entitled to act on behalf of the victims.³¹

Furthermore, in terms of discrimination on racial and ethnic grounds, the Recommendation of the Council of the European Union on Roma equality and participation, dated 12 March 2021, should be mentioned. Point 2 of the Recommendation states:

“Council Decision 2008/913/JHA obliges Member States to criminalise public incitement to violence or hatred based on race, colour, religion, descent or national or ethnic origin and to ensure that racist and xenophobic motivation is considered an aggravating circumstance or, alternatively, that it may be taken into account by national courts in determining fines. This Recommendation is designed to strengthen measures taken against hate speech, hate crime and violence against Roma. In line with Directive 2012/29/EU of the European Parliament and of the Council, this Recommendation also aims to promote support for Roma victims of such crimes.”

In light of the specific case regarding discrimination against the Roma, Ashkali and Egyptian communities, it is important to reiterate that the case law of the ECtHR holds special significance in Kosovo, as its decisions are directly applicable under Article 53 of the Constitution.

30 Law of the Republic of Kosovo No 05/L-021 (n 16) art 1.2.

31 Council Directive 2000/43/EC of 29 June 2000 Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin [2000] OJ L 180/22, paras 13, 16, 19.

In terms of international practice, in particular the ECtHR, there are several cases in which the racial aspect of discrimination has been addressed, including instances where the victims were members of the Roma community. For example, in *Burlya and Others v. Ukraine* (Application No. 3289/10), the ECtHR found that the state had failed to protect the Roma community from a planned attack on their homes by an anti-Roma mob.³²

Similarly, in *Paketova and Others v. Bulgaria* (Applications nos. 17808/19 and 36972/19), the ECtHR found a violation of Article 14, based on discrimination, as the Roma applicants were forced to leave their homes due to marches against them.³³

In *D.H. and Others v. The Czech Republic* (Application No. 57325/00), para. 182, the ECtHR emphasised that, due to their history, the Roma have become a particularly disadvantaged and vulnerable minority. As such, special attention must be given to their needs and distinct way of life—not only through the relevant regulatory framework but also in making special decisions for their cases, respectively, special protection.³⁴

Additionally, in *Budinova and Chaprazov v. Bulgaria* (Application No. 12567/13), the ECtHR emphasised that the state had failed to fulfil its positive obligations to protect members of the Roma minority from hate speech which had resulted from the statements of a politician.³⁵

These cases collectively illustrate the ECtHR's established practice in addressing discrimination against Roma individuals and should be considered when setting standards and providing legal protection for the Roma, Ashkali and Egyptian communities in Kosovo.

Regarding national practice, there have been cases in which regular courts in Kosovo have found discrimination against members of the Egyptian community. However, to date, there has been no case in which discrimination against the Roma, Ashkali and Egyptian communities has been addressed by the Constitutional Court of Kosovo.

4.3. From Discrimination to Antigypsyism - Kosovo One Step Further

The Law on Protection from Discrimination, currently in force in Kosovo, is the strongest basis for combating discrimination against the Roma, Ashkali, and Egyptian communities, in addition to the Constitution, international acts and the practice of the ECtHR.

32 *Burlya and Others v. Ukraine* App no 3289/10 (ECtHR, 6 November 2018, final 06/02/2019) <<https://hudoc.echr.coe.int/?i=001-187508>> accessed 25 March 2025.

33 *Paketova and Others v. Bulgaria* App nos 17808/19 and 36972/19 (ECtHR, 4 October 2022, final 04/01/2023) <<https://hudoc.echr.coe.int/fre?i=001-219776>> accessed 25 March 2025.

34 *DH and Others v. The Czech Republic* (n 26).

35 *Budinova and Chaprazov v. Bulgaria* App no 12567/13 (ECtHR, 16 February 2021, final 16/05/2021) <<https://hudoc.echr.coe.int/eng?i=001-207928>> accessed 25 March 2025.

From a comparative perspective, various democratic countries, such as Slovenia³⁶ and Croatia³⁷ have enacted general Anti-Discrimination laws. However, in comparative practice, there are also countries that have gone so far as to recognise discrimination against Roma communities even more deeply by law, addressing specific forms of discrimination faced by Roma communities, particularly antigypsyism. A notable example is Romania, which, under EU obligations, adopted Law No. 2/04.01.2021 on 4 January 2021, establishing measures to combat antigypsyism.

This law constitutes a clear commitment of the Romanian state to take concrete measures in combating hate speech and racial discrimination against the Roma minority. Point 2a of this law establishes the definition of antigypsyism as follows:

“Perception of Roma expressed in hatred as well as verbal or physical manifestations expressed in hatred and directed against Roma, their property, Roma institutions or NGOs, traditions and the Roma language.”

Article 2(c) of the same law also defines symbols that promote and incite antigypsyism—including emblems, uniforms, slogans, greetings or any other signs associated with such propaganda. Under Article 5(3), penalties for organising propaganda activities that promote antigypsyism range from three months to ten years’ imprisonment, depending on the nature and severity of the offence.³⁸

This legislative development highlights Romania’s commitment—under both internal policy and EU pressure—to enact a special law that protects the Roma population from hate speech and racially motivated attacks.

In Kosovo, antigypsyism is similarly manifested in various forms, including prejudices and stereotypes, hate speech and hate crimes, police violence, distrust of institutions, individual and institutional discrimination in almost all areas of public life, which are evidenced in national research. The isolation of Roma, Ashkali and Egyptian communities (“mahala”), limited access to quality education, limited access to kindergartens, the separation of Roma, Ashkali and Egyptian children from their peers, unequal access to employment and healthcare, are all manifestations of antigypsyism.

Roma, Ashkali, and Egyptians do not have the same status as other national minorities in Kosovo. While ethnic stereotypes and prejudices exist to a certain extent in every society,³⁹

36 Act of the Republic of Slovenia of 21 April 2016 on Protection Against Discrimination ‘Zakon o varstvu pred diskriminacijo (ZVarD)’ [2016] Official Gazette 33/1427.

37 Act of the Republic of Croatia of 9 May 2008 on the Suppression of Discrimination (the Anti-Discrimination Act) [2008] Narodne Novine 85/12.

38 Iulius Rostas and Ciprian Nodis, *Antigypsyism in Romania: Lessons (not) learned : National Research Report*, 17 November 2022 (CHACHIPEN 2022) 52-4 <<https://antigypsyism.eu/antigypsyism-in-romania-lessons-not-learned/>> accessed 25 March 2025.

39 Ann Morton Hyde and others, *National Research on Antigypsyism in Kosovo: Report* (Think - International and UBO Consulting 2022) 28.

the systemic and structural nature of antigypsyism in Kosovo marks it as a distinct form of discrimination against these communities.

Beyond the general discrimination faced by Roma, Ashkali and Egyptian non-majority communities, a notable development occurred in 2024: Kosovo initiated the drafting of a new law on Protection from Discrimination. The first draft, drafted in 2024, is currently under review and is expected to be approved by Kosovo's Government and Parliament.

One of the main innovations of this draft law is that it recognises the category of racial discrimination on ethnic grounds, as well as antigypsyism as a specific form of discrimination against Roma, Ashkali and Egyptian communities in Kosovo.⁴⁰

4.4. Practical Implementation of the Rights of the Roma, Ashkali, and Egyptian Communities

According to the analysis conducted in this research and the reports issued by other institutions regarding the situation of the communities, the data reflect the facts that although the Roma, Ashkali and Egyptian communities in Kosovo are, in principle, equal to other non-majority communities in Kosovo, they remain marginalised and subjected to discrimination. Research from most of the cases indicates that the Roma, Ashkali, and Egyptian communities live on the margins of society.⁴¹

Additionally, research shows several persistent issues, including: their low educational attainment, poor infrastructure in their residential areas, inadequate management of complaints by the central and local institutions, ongoing discrimination, lack of personal documentation, substantial challenges in accessing justice, issues with property registration due to the lack of documentation, constant complaints regarding the proceedings of their cases when they are reported to the police, prosecutor, as well as lack of response for the reported cases of discrimination.⁴²

The challenges facing these communities are also highlighted in the Progress Report for Kosovo.⁴³ The Progress Report for Kosovo in 2021 reveals that the Roma and Ashkali communities in Kosovo continue to be the most marginalised in society. The report further

40 Draft Law of the Republic of Kosovo 'On the Protection from Discrimination' (2024) art 5, paras 13, 15.

41 Organization for Security and Co-operation in Europe, *Overview of Roma, Ashkali and Egyptian communities in Kosovo* (OSCE 2020) 4.

42 Gzim Shala and others, *Inclusion of the Roma, Ashkali, and Egyptian Communities in Decision-Making: Needs Analysis of Roma, Ashkali, and Egyptian Communities Through Open Meetings in the Municipality of Prishtina, Prizren, Peja, Gjakova, Obiliq, Ferizaj, Gjilan, Fushë Kosova, and Kamenica* (Kosovo Law Institute 2022) 15.

43 European Commission, *Commission Staff Working Document Kosovo* 2022 Report* (SWD(2022)334 final, 12 October 2022) <<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:52022SC0334>> accessed 25 March 2025.

notes that the particularly difficult circumstances of returnees from these communities and recommends that efforts be made to fight discrimination against the Roma and Ashkali communities in the education sector, particularly in universities and schools.⁴⁴

In its report for 2022, the Ombudsperson Institution of Kosovo addressed the situation of the Roma, Ashkali, and Egyptian communities, specifically for the individuals returned by these communities. A key issue highlighted was that many individuals in Roma, Ashkali, and Egyptian communities are not even aware of the complaint mechanisms that exist in cases of discrimination. Based on complaints received in 2022, the Ombudsperson identified delays in legal procedures related to property rights as a major concern for these communities.⁴⁵

Poor conditions were also identified in the field of education. In Ex Officio Report No. 331/2022, the Ombudsperson noted that the inclusion of Roma, Egyptian, and Ashkali students remains significantly lower than that of other communities, predominantly in preschool and upper secondary education.⁴⁶

Despite the noted lack of awareness about complaint procedures, the Ombudsperson received a total of 25 discrimination-related cases in 2022: 13 from the Ashkali community, 10 from the Roma community, and two from the Egyptian community.⁴⁷

Most recently, the Ombudsperson issued findings in Case No. 637/2023, concluding that the Municipality of Fushë Kosovë violated the rights to education of children from the Roma and Ashkali communities. The case report No. 637/2023 addresses concrete recommendations for competent institutions at the central and local levels.⁴⁸

In relation to complaints submitted in 2024, the Annual Report of the Ombudsperson, published on 31 March 2025, reveals that a total of 48 complaints belong to the Roma, Ashkali, and Egyptian communities: 22 from the Ashkali community, 19 from the Roma community, and 7 from the Egyptian community.⁴⁹

Regarding cases investigated by the Ombudsperson in 2024, disaggregated by ethnic affiliation, the institution handled 5 cases involving members of the Ashkali community,

44 European Commission, *Commission Staff Working Document Kosovo* 2021 Report* (SWD(2021)292 final, 19 October 2021) <<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:52021SC0292>> accessed 25 March 2025.

45 Ombudsperson Institution, *Annual Report 2022* (No 22, 31 March 2023) 90-1 <<https://oik-rks.org/en/2023/03/31/annual-report-2022/>> accessed 25 March 2025.

46 Ombudsperson Institution, *Report of the Ombudsperson, With regard to harmonization of the provisions of General Pre-University Education System of Kosovo with the rights of children in education* (Ex-officio No 331/2022, 9 November 2022) 33-7 <<https://oik-rks.org/en/2022/11/10/report-of-the-ombudsperson-ex-officio-no-3312022/>> accessed 30 March 2025.

47 Ombudsperson Institution, *Annual Report 2022* (n 45) 14.

48 *ibid* 10.

49 Ombudsperson Institution, *Annual Report 2024* (No 24, 28 March 2025) 16 <<https://oik-rks.org/en/2025/03/28/annual-report-2024/>> accessed 30 March 2025.

7 cases involving members of the Roma community, and 3 cases involving members of the Egyptian community.⁵⁰

Courts play a very crucial role in addressing and verifying instances of discrimination against these communities. A significant example is the Court of Appeal case Ac. No. 1849/20 dated 14 June 2022, in which the Court confirmed that the Directorate of Education within the Municipality of Gjakova had discriminated against the Roma, Ashkali, and Egyptian communities on the basis of race and ethnicity. Specifically, the Directorate had placed children from these communities in separate classes, which constitutes a violation of the right to qualitative and comprehensive education.⁵¹

It should be emphasised that this case lasted more than four years. The Court of Appeal alone took over a year and a half to reach a decision, demonstrating a lack of prioritisation.

4.5. Measures Taken and Additional Mechanisms Developed to Safeguard the Roma, Ashkali, and Egyptian Communities against Discrimination

In response to persistent discrimination against the Roma, Ashkali and Egyptian communities, Kosovo's institutions have taken important measures to create protective policies. A particularly important step was Kosovo's commitment alongside other Western Balkan states, including Kosovo, within the framework of the Berlin Process,⁵² to integrate the Roma population. This commitment was made through the joint statement expressed in Poznan in 2019.⁵³

Following this declaration, the Prime Minister of the Republic of Kosovo issued a decision to establish a Technical Working Group to protect the Roma, Ashkali and Egyptian

50 ibid 18.

51 Case No 1849/20 (Court of Appeal, 14 June 2022).

52 The Berlin process was set up in 2014 as a platform to increase cooperation between the Western Balkans Six and the Berlin Process host countries as well as the EU. It is first and foremost a consistent and inclusive format for all 6 Western Balkan countries. High official representatives of the Western Balkan Six (WB6) and their peers in Berlin Process host countries meet at least once a year at the Summit and preparatory Ministerial meetings. The Process also involves the EU institutions, international financial institutions and the region's civil society, youth and businesses. It provides high level political support and broad outreach and visibility to regional cooperation initiatives and respective policies, as well as to EU connectivity projects in the region. Over the years the Berlin Process continuously evolved and currently consists of the Summit itself, Ministerial Meetings (Foreign, Interior, Economy, Roma) and multiple side events (Digital Summit, Business Forum, Youth Forum, Civil Society Forum, Gender Forum, Science Conference, Purchasing Initiative of German Business and Agricultural Policy Forum). These Events are usually spread throughout the months in the run up towards the main summit. See, *Berlin process* (GIZ 2014) <<https://www.berlinprocess.de>> accessed 25 March 2025.

53 Democracy Plus, *Commitments from the "Berlin Process" on Rule of Law and Good Governance: Preparation for Agenda "Berlin Plus"* (Konrad-Adenauer-Stiftung (KAS) 2019) 7 <<https://dplus.org/en/publications/commitments-from-the-berlin-process-on-rule-of-law-and-good-governance/5786/>> accessed 30 March 2025.

communities.⁵⁴ This group became the first institutional mechanism in Kosovo dedicated to addressing cases and combating discrimination against these communities, operating within the country's existing legal and human rights framework.⁵⁵

Within the framework of measures and mechanisms created for the anti-discrimination measures of the Roma, Ashkali, and Egyptian communities, the technical group has developed the National Platform for the Anti-discrimination Measures for the Roma, Ashkali, and Egyptian Communities.⁵⁶

Launched in June 2022, the **National Platform for the Anti-discrimination measures of the Roma, Ashkali, and Egyptian Communities** in Kosovo aims to prevent and address discrimination by promoting institutional coordination, public awareness, and inclusive policymaking. Its key tasks include monitoring cases of discrimination, advising government bodies, facilitating dialogue among stakeholders, and empowering communities through participation and advocacy. Its core activities include collecting data, issuing reports, organising consultations, conducting training for public servants, and raising awareness to combat stereotypes and hate speech. The Platform serves as a national mechanism to advance equality and protect the rights of these communities in line with Kosovo's anti-discrimination legal framework and international human rights standards.⁵⁷

This platform functions as an additional measure to empower the Roma, Ashkali, and Egyptian communities in Kosovo to report cases of discrimination.⁵⁸

By 31 December 2024, the Platform had been operational for 30 months, functioning as both a preventive and responsive tool. It also acts as an additional affirmative measure to ensure equal treatment for all citizens in the Roma, Ashkali, and Egyptian communities.⁵⁹

The establishment of the Technical Working Group and the development of the National Platform for Anti-discrimination measures reflect Kosovo's institutional efforts to address systemic discrimination faced by Roma, Ashkali, and Egyptian communities, particularly in the context of regional commitments like the Poznan Declaration under the Berlin Process.

These initiatives signify a shift from passive legal guarantees to active institutional engagement, aiming to provide accessible and community-focused mechanisms for reporting and addressing discrimination. By creating the first dedicated institutional

54 Decision of the Prime Minister of the Republic of Kosovo No 139/2020 of 11 September 2020.

55 Ombudsperson Institution, *Annual Report 2024* (n 49) 16.

56 Government of the Republic of Kosovo, *National Anti-Discrimination Platform* (n 3).

57 Office of the Prime Minister, *Protection against Discrimination: A comprehensive overview of the year-long efforts of the National Platform for Protection from Discrimination of Egyptian, Ashkali, and Roma communities (2022-2023)* (Office for Good Governance 2023).

58 Office of the Prime Minister, *Report on the Implementation of the Law on the Protection from Discrimination Based on Cases Reported to the National Platform for Protection against Discrimination for the Roma, Ashkali and Egyptian Communities* (Office for Good Governance 2023).

59 Office of the Prime Minister, *Report Implementation of the Strategy for the Advancement of the Rights of the Roma and Ashkali Communities in the Republic of Kosovo for 2022-2026 as Well Action Plan 2022-2024 for 2023* (Office for Good Governance 2024) 43-5.

structure for these communities, Kosovo acknowledges the need for tailored responses to the specific vulnerabilities they face. However, while these measures represent positive steps, their effectiveness depends on sustained political will, adequate resourcing, active promotion within communities, and the institutions' capacity to follow up on complaints with concrete actions and accountability.

4.6. Data of Cases Reported to the National Platform for Anti-Discrimination Measures of the Roma, Ashkali and Egyptian Communities in Kosovo

The National Platform for Anti-Discrimination measures of the Roma, Ashkali, and Egyptian communities, established in June 2022, recorded 23 cases against discrimination up to June 2023.⁶⁰

Figure 1⁶¹ presents the cases according to the ethnic belonging of the communities: 9 cases were reported by members of the Egyptian community, 3 cases by the Ashkali community, and 7 by the Roma community. Additionally, 4 cases did not state which community they belonged to when submitting their cases on the national platform. The exact reason for the lack of community declaration is unknown.

Interestingly, out of 23 cases presented in Figure 1, 11 were reported anonymously, while 8 reporters agreed to reveal their identity.⁶² The reluctance to disclose identity in cases of discrimination from the Roma, Ashkali and Egyptian communities can also be related to the conclusion of the People's Advocate in its annual report, which emphasised that citizens often do not report discrimination because they are afraid.

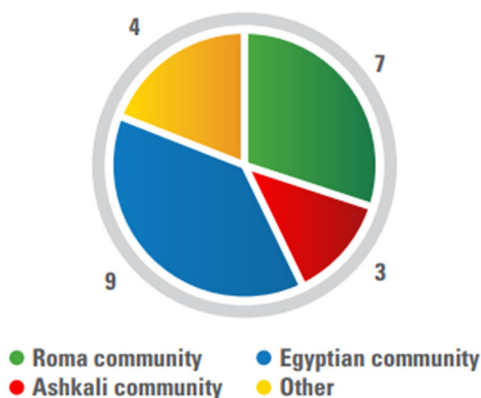


Figure 1. Classification of cases by ethnic belonging

60 Office of the Prime Minister, *Protection against Discrimination* (n 57) 6.

61 *ibid* 6.

62 *ibid* 10.

Figure 2⁶³ displays the reported cases of discrimination among non-majority communities based on their educational level. The data shows that nine reporters have a university-level education. This reinforces the observation made by the People's Advocate, which states that the Romani, Ashkali, and Egyptian communities do not have sufficient knowledge about the procedures and mechanisms for anti-discrimination measures, also taking into account their limited access to education.

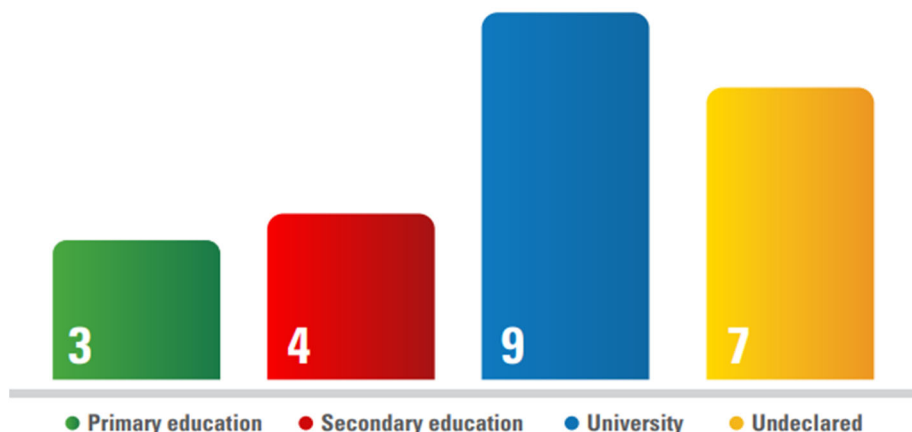


Figure 2. Classification of cases by the educational level of the reporters

On the other hand, Table 1⁶⁴ presents the cases where discrimination has occurred, respectively, based on the geographical distribution. The most reported cases were in the Municipalities of Fushë Kosovë and Prishtinë. One of the main reasons for this is that in these municipalities, the largest number of members of non-majority communities live.

Table 2⁶⁵ shows the entities responsible for discrimination against the communities. As shown, private businesses are involved in 5 cases, while public institutions are involved in 9 cases. A large number of public institutions are involved in reported cases of discrimination, which is also related to the poor practice of punishment by competent institutions to fight discrimination. This also applies to private businesses, to which the policy of punishment for discrimination is almost non-existent.

63 ibid 7.

64 ibid 9.

65 ibid 10.

Table 1. Reported cases by geographical distribution

MUNICIPALITY	NUMBER OF CASES
Ferizaj	1
Fushë Kosovë	4
Gjakovë	3
Klinë	1
Obiliq	1
Pejë	1
Prishtinë	5
Prizren	1
Not defined	6
TOTAL	23

Table 2. Institutions, legal entities, and natural persons where discrimination has occurred or is alleged to have occurred

Institution/legal or natural persons where discrimination has occurred or is alleged to have occurred	Number of cases
Business/company	5
Medical institutions	2
Municipalities	2
Ministry of Internal Affairs	1
Ministry of Health	1
Individuals	3
Police	1
Government	1
University	1
Unidentified	6
TOTAL	23

4.7. Discrimination against the Roma, Ashkali, and Egyptian Communities - What Does the Practice of Reported Cases Show?

Referring to the legal framework and the creation of the National Platform for Anti-Discrimination measures, it is clear that Kosovo's institutions have established an important foundation to combat discrimination against the Roma, Ashkali, and Egyptian communities. The inclusion of anti-discrimination laws and mechanisms, such as the Ombudsperson and the courts, demonstrates a formal commitment to equality. However, the effectiveness of these measures depends on their practical implementation. By analysing cases reported to the platform, this study highlights the real-life challenges these communities face and the extent to which institutions respond to discrimination. This analysis reveals the gap between legal protections and their enforcement, offering insights into where further improvements are needed.

4.7.1. The Case of Discrimination against Returned Roma Families

This case involves two Roma families who returned from North Macedonia. Both families live in tough conditions and have purchased land in the Municipality of Obiliq. Nevertheless, the municipality has not authorised them to build houses on this land, as it is designated for agricultural use rather than construction.⁶⁶

The legal framework requires intervention in this matter, as the safe and dignified return of refugees and displaced persons is a matter determined by the Constitution of Kosovo.⁶⁷ The Constitutional Court rejected the amendment proposal for the deletion of this article, on the grounds that its deletion diminishes the rights guaranteed by the constitution and by international documents, which Kosovo has a positive obligation to implement, such as, in particular, the right of movement and the right to property.⁶⁸

Article 156 of the Constitution mandates that the Republic of Kosovo assist refugees and internally displaced persons in two ways: first, by promoting a safe and dignified return, and second, by providing substantial facilities to enable the return of all of those who were forced to leave Kosovo, as a result of the war and excessive violence before and after 10 June 1999.⁶⁹

Regarding the circumstances of this case, Article 10.3 of Law No. 02/L-26 on Agricultural Land states that "Exceptionally, when no other possibility is provided and when it is required for general interest, the agricultural land respectively forestland of class 1-4 through the spatial plan respectively municipal development plan may be classified as land for other use."⁷⁰

66 *ibid* 12.

67 Constitution of the Republic of Kosovo (n 2) art 156.

68 Case K038/12 (Constitutional Court of the Republic of Kosovo, 15 May 2012) paras 80-93.

69 Enver Hasani and Ivan Čukalović, *Komentari: Kushtetuta e Republikës së Kosovës* (GIZ 2013) 703.

70 Law of the Republic of Kosovo No 02/L-26 'On Agricultural Land' [2007] Official Gazette 13/52, art 10.3.

Likewise, this law identifies "the general interest" as a reason for reclassification of the agricultural property. Also, Regulation (GRK) No. 01/2018 on the Return of Displaced Persons and Durable Solutions, in Article 15, specifies that: "The scheme for housing and sheltering categories is as follows:... Support through allocation of land with tenure rights for special cases, in accordance with the applicable Law on Allocation for Use and Exchange of Immovable Property of Municipality."⁷¹ This regulation aims to create the conditions for achieving durable solutions for internally displaced people within Kosovo and in the region from 28 February 1998 until 31 March 2004.

As mentioned above, in this case, the Municipality of Obiliq has failed to consider the legal obligations, including those arising from the Law on Agricultural Land and the Regulation on the Return of Displaced Persons, and has treated the returned Roma families unequally. By denying authorisation to build houses on their purchased land, the municipality has indirectly discriminated against these families.

4.7.2. Discrimination in the Case of Restricting Freedom of Assembly

Discrimination in this case involves the denial of the right to freedom of assembly, linked to the murder of Kujtim Veseli, a child from the Roma community, on 11 July 2019. His murder was accompanied by a great public reaction, due to suspicions that institutions of the Republic of Kosovo had neglected the case.⁷²

In response to widespread citizen demands for justice, an activist advocating for the protection of the rights of the Roma, Ashkali and Egyptian community planned a peaceful rally on 31 August 2020 near the State Prosecutor's office. The purpose of the gathering was to express outrage over the case and demand institutional action addressing the perceived lack of institutional response to the murder. The activist notified the Kosovo Police of the planned rally on 27 August 2020, indicating that 10 to 20 people would participate. In the announcement sent to the Kosovo Police, the anti-COVID measures that would be respected were also indicated.⁷³

Despite this, the Kosovo Police rejected the request and in response said that "there are no conditions in terms of security to allow the gathering because the causes of the COVID-19 epidemic already exist". This decision of the Kosovo Police did not contain adequate reasoning.⁷⁴ Moreover, this denial In this particular case, the Kosovo Police had violated the

71 Regulation (GRK) - No 01/2018 On the Return of Displaced Persons and Durable Solutions (04 January 2018) art 15 <<https://www.refworld.org/legal/decrees/natlegbod/2018/en/122389>> accessed 25 March 2025.

72 'The Battle for Justice in the Case of the Murder of 11-Year-Old Kujtim Veseli' (*Insajderi*, 11 October 2020) <<https://insajderi.org/en/the-battle-for-justice-in-the-case-of-the-murder-of-the-11-year-old-%2C-a-happy-memory/>> accessed 25 March 2025.

73 Data from the National Platform for the Protection against Discrimination of the Roma, Ashkali and Egyptian communities.

74 Office of the Prime Minister, *Protection against Discrimination* (n 57) 12.

freedom of assembly, guaranteed by Article 43 of the Constitution of Kosovo, accompanied by discrimination, since at the same time other assemblies were held that had more people than this one, which was about a protest organised by the Roma community. Thus, the Kosovo police had treated differently, in the same situations, this action, which according to the law is considered discrimination.⁷⁵

4.7.3. Cases of Discrimination through Hate Speech Resulting in Criminal Offences

Following the circulation of a photo on social media, several online portals falsely claimed that the individual in the image—an ethnic Roma woman—was a man dressed as a woman, and raised unfounded suspicions that the person might be transgender. These misleading reports were accompanied by videos and inflammatory commentary, which fueled hateful discourse online. As a direct consequence of this incitement, the Roma woman was physically attacked by individuals on two separate occasions, on 29 May and 31 May 2019, in the city of Ferizaj. The case was widely reported, including in the article titled “Serious incident in Ferizaj: Roma woman brutally assaulted on the street”, published by Mapo Newspaper on 31 May 2019. In response, the Ombudsperson Institution of Kosovo issued a special report, categorising the incident as a case of discrimination and hate speech that led to violence. The report included recommendations to several institutions, including the Chief State Prosecutor, the Kosovo Police, the Independent Media Commission, and the Centres for Social Work, urging them to take appropriate action.⁷⁶

A separate case of hatred, incitement and intolerance on social media occurred when the Prime Minister of Kosovo visited a private company employing members of the Roma, Ashkali, and Egyptian communities. A public official, commenting on the official Facebook page of the Prime Minister, made inappropriate remarks. This behaviour constitutes discrimination with elements of a criminal offence and is currently being addressed by competent institutions, specifically the state prosecutor.⁷⁷

These cases illustrate the severe consequences of hate speech and incitement on social media, particularly when directed at vulnerable groups like the Roma community. The Roma woman was physically assaulted following defamatory online content and public speculation about her gender identity. This example reflects how unchecked hate speech can escalate into real-world violence. The People's Advocate rightly classified the incident as

75 Data from the National Platform for the Protection against Discrimination of the Roma, Ashkali and Egyptian communities.

76 Ombudsperson Institution, *Report with recommendations In accordance with the positive obligations in the case of Ms ZS, guaranteed by the Constitution of the Republic of Kosovo and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms* (Ex-officio No 468/2019, 9 December 2019) <<https://oik-rks.org/en/2019/12/09/report-with-recommendations-ex-officio-no-4682019-in-accordance-with-the-positive-obligations-in-the-case-of-ms-z-s-guaranteed-by-the-constitution-of-the-republic-of-kosovo-and-article-3-of-the-e/>> accessed 30 March 2025.

77 Office of the Prime Minister, *Protection against Discrimination* (n 57) 12.

discrimination driven by hate speech and issued recommendations to relevant institutions, highlighting the urgent need for coordinated institutional responses. Similarly, the discriminatory comment made by a public official on the Prime Minister's Facebook page, targeting Roma, Ashkali, and Egyptian workers, further demonstrates how hate and prejudice continue to infiltrate public discourse, even from those in positions of authority.

Both cases underscore the dangerous role that online platforms and irresponsible media can play in fueling discrimination and violence. To effectively address this, Kosovo's institutions must take concrete action by strengthening monitoring and sanctioning mechanisms for hate speech, especially when it originates from public officials or media outlets. Awareness campaigns and training on hate speech, anti-discrimination, and responsible online behaviour should be implemented across public institutions and the media.

4.7.4. The Case of Discrimination against a Member of the Egyptian Community by the Ministry of Health

This case concerns the ongoing request of a healthcare professional from the Egyptian community to obtain a specialisation certificate for employment in Kosovo's healthcare system. The Ministry of Health of Kosovo has continuously refused to issue the specialisation certificate, relying on outdated administrative instructions from 2003, valid only until Kosovo declared its independence in 2008.⁷⁸

After a lengthy legal battle, the competent Court of First Instance ruled that the Ministry of Health had imposed unequal employment requirements on the Egyptian professional, thus discriminating against him indirectly.⁷⁹

This case clearly illustrates indirect institutional discrimination. The Ministry's continued reliance on an outdated administrative instruction from 2003—invalid since Kosovo's independence in 2008—resulted in unequal employment conditions and hindered the professional advancement of a non-majority individual. The Court of First Instance rightly found that this practice created discriminatory barriers, contradicting Kosovo's constitutional principles and legal guarantees for equality and non-discrimination.

The case illustrates how failure to update and align institutional procedures with current laws can disproportionately harm marginalised communities. To prevent similar cases, the Ministry of Health and other public institutions should urgently review and revise all administrative acts and ensure that staff are trained on anti-discrimination standards. Clear accountability mechanisms must be established to safeguard equal treatment for all citizens, particularly those from vulnerable communities.

78 Data from the National Platform for the Protection against Discrimination of the Roma, Ashkali, and Egyptian communities, 2023.

79 Case C No 400/19 (Basic Court in Prishtina, General Department, 18 May 2023).

5 CONCLUSIONS

The circumstances of the Roma, Ashkali, and Egyptian communities presented above demonstrate that, although these communities in Kosovo enjoy the same formal legal protection as other non-majority communities, in practice, they are more frequently and deeply exposed to various forms of discrimination. Such discrimination is not only isolated but systemic, manifesting in almost every sector of life—including education, employment, access to health services, property rights, and justice. Despite Kosovo's progressive constitutional and legal framework that guarantees equality and prohibits discrimination—particularly based on ethnicity—the lived reality of these communities continues to reflect persistent inequality and marginalisation.

One of the most concerning aspects remains the deep level of poverty that affects the Roma, Ashkali, and Egyptian communities, which directly impacts their access to public services, especially to education. Their low levels of educational attainment severely limit their opportunities for meaningful participation in social and economic life. This condition further perpetuates a vicious cycle of exclusion, underdevelopment, and discrimination. While Kosovo has indeed developed a solid legal infrastructure for the protection of communities, including the adoption of the Law on Protection from Discrimination and other sectoral legislation, as well as the establishment of bodies like the Ombudsperson and specialised mechanisms such as the National Platform for Anti-discrimination measures, the practical enforcement and implementation of these laws and structures remain weak and insufficiently impactful.

The cases presented on the National Platform for Anti-Discrimination measures offer a clear illustration of the types and extent of discrimination faced by members of these communities. These range from institutional discrimination by public authorities and the police to violations of the right to education and hate speech in the media and public discourse. Although the creation of this platform marks an important step toward visibility and accountability, it is not enough on its own. The reluctance of many individuals to report discrimination, often due to fear of retaliation or lack of trust in institutions, highlights a significant gap in public awareness and institutional outreach.

This indicates an urgent need for Kosovo's institutions to intensify efforts to raise awareness among Roma, Ashkali, and Egyptian communities regarding their rights and the mechanisms available for protection. Such awareness campaigns must be culturally sensitive, community-specific, and accessible to people with limited education. Moreover, the data suggests that enforcement of anti-discrimination measures is inconsistent and that the punishment of perpetrators, especially public institutions and private businesses, is rare or inadequate. Therefore, it is essential to strengthen the sanctioning mechanisms against entities found responsible for discrimination to build public trust and deter future violations.

Furthermore, Kosovo's constitutional obligation to take affirmative measures to support the integration and protection of these communities must be translated into concrete, result-oriented policies. This includes improving housing conditions for returnees, ensuring equitable access to education and employment, and facilitating access to justice and documentation. Through such comprehensive and consistent efforts, the state can meet its commitments under domestic and international law and move towards a more inclusive and just society.

In conclusion, the fight against discrimination against the Roma, Ashkali, and Egyptian communities in Kosovo must go beyond formal legal provisions. It requires political will, active institutional engagement, public awareness, and a functioning accountability system. The experiences documented in this study reaffirm the urgent need for Kosovo to adopt a more proactive, inclusive, and enforceable approach to addressing the systemic discrimination faced by these communities, ensuring that equality is not only a constitutional promise but a lived reality for all.

REFERENCES

1. Bajrami A and Muçaj F, *E drejta Kushtetuese* (Universiteti i Prishtinës "Hasan Prishtina" 2018).
2. Cokoşatu M, 'The Role of Ethnic Minorities within the Government Systems of Kosovo' (2012) 5(1) *Acta Universitatis Danubius* 111.
3. Hasani E and Čukalović I, *Komentar: Kushtetuta e Republikës së Kosovës* (GIZ 2013).
4. Hyde AM and others, *National Research on Antigypsyism in Kosovo: Report* (Think - International and UBO Consulting 2022).
5. Marushiakova E and others, *Identity Formation among Minorities in the Balkans: The Cases of Roms, Egyptians and Ashkali in Kosovo* (Minority Studies Society Studii Romani 2001).
6. Miletić G, *The Wall of Anti-Gypsyism: Roma, Ashkali AND Egyptians in Kosovo* (Civil Rights Defenders 2018).
7. Mulolli-Jahmurataj M, 'Education Policies in Pre-University Education of the Republic of Kosovo for Non-Majority Communities of Roma, Ashkali, and Egyptian' (2020) 4(1) *Prizren Social Science Journal* 57, doi:10.32936/pssj.v4i1.143.
8. Nimani P and others, 'The Constitutional and Legal Position of National Minorities in Kosovo: Ahtisaari Package and the Privilege of Minorities' (2023) 6(4) *Access to Justice in Eastern Europe Journal* 144, doi:10.33327/AJEE-18-6.4-a000406.
9. Rostas I and Nodis C, *Antigypsyism in Romania: Lessons (not) learned : National Research Report, 17 November 2022* (CHACHIPEN 2022).

10. Rostas I, *Antigypsyism: Causes, Prevalence, Consequences, Possible Responses: Report of the Committee of experts on Roma and Traveller issues (ADI-ROM)* (Council of Europe 2022).
11. Shala G and others, *Inclusion of the Roma, Ashkali, and Egyptian Communities in Decision-Making: Needs Analysis of Roma, Ashkali, and Egyptian Communities Through Open Meetings in the Municipality of Prishtina, Prizren, Peja, Gjakova, Obiliq, Ferizaj, Gjilan, Fushë Kosova, and Kamenica* (Kosovo Law Institute 2022).
12. Shala S, Gega G and Berisha E, 'The Non-Majority Communities' Rights in Kosovo: Implementation of the Right to Employment and Education' (2023) 9(2) *Journal of Liberty and International Affairs* 531, doi:10.47305/JLIA2392716sh.
13. Visoka G, 'Political Parties and Minority Participation: Case of Roma, Ashkalia and Egyptians in Kosovo' in *Political Parties and Minority Participation* (Friedrich Ebert Stiftung 2008) 153.

AUTHORS INFORMATION

Adelina Rakaj

Ph.D (Law), Assistant Professor, Faculty of Law, University of Prizren, Prizren, Republic of Kosovo

adelina.rakaj@uni-prizren.com

<https://orcid.org/0000-0002-7432-0854>

Co-author, responsible for conceptualization, formal analysis, investigation, resources, supervision, validation, writing – original draft and writing – review & editing.

Melos Kolshi*

Ph.D Candidate (Law), Constitutional and Administrative Law, South East European University, Tetovo, North Macedonia

mk32390@seeu.edu.mk

<https://orcid.org/0009-0001-2618-5256>

Corresponding author, responsible for formal analysis, investigation, resources, visualization and writing – review & editing.

Aleksandra Klich

Ph.D (Law), Faculty of Law, Vilnius University, Vilnius, Lithuania

aleksandra.klich@tf.vu.lt

<https://orcid.org/0000-0002-2931-712X>

Co-author, responsible for investigation, resources, validation and writing – review & editing.

Keriman Sadikay

Ph.D (Law), Office for Good Governance, Republic of Kosovo Government, Prishtina, Republic of Kosovo

keriman.sadikay@rks-gov.net

<https://orcid.org/0000-0002-9284-1514>

Co-author, responsible for data curation, funding acquisition, investigation, resources and software.

Competing interests: No competing interests were disclosed.

Disclaimer: The authors declare that their opinion and views expressed in this manuscript are free of any impact of any organizations.

RIGHTS AND PERMISSIONS

Copyright: © 2025 Adelina Rakaj, Melos Kolshi, Aleksandra Klich and Keriman Sadikay. This is an open access article distributed under the terms of the Creative Commons Attribution License, (CC BY 4.0), which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

EDITORS

Managing editor – Mag. Yuliia Hartman. **English Editor** – Julie Bold.

Ukrainian Language Editor – Liliia Hartman.

ABOUT THIS ARTICLE

Cite this article

Rakaj A, Kolshi M, Klich A and Sadikay K, 'Discrimination against Non-Majorities, Roma, Ashkali and Egyptian Communities in Kosovo: Insights from Practice' (2025) 8(3) Access to Justice in Eastern Europe 1-30 <<https://doi.org/10.33327/AJEE-18-8.3-a000106>> Published Online 03 Jul 2025

DOI <https://doi.org/10.33327/AJEE-18-8.3-a000106>

Summary: 1. Introduction. – 2. Methodology. – 2.1. *Definition and Forms of the Arbitration Agreement.* – 3. Literature Review. – 4. Research Results and Discussion. – 4.1. *Legal Framework for Anti-Discrimination Measures of the Roma, Ashkali, and*

Egyptian Communities in Kosovo and Its Content. – 4.2. Implementation of International Standards for Protection from Discrimination in Kosovo, Including Those of the European Union. – 4.3. From Discrimination to Antigypsyism - Kosovo One Step Further. – 4.4. Practical Implementation of the Rights of the Roma, Ashkali, and Egyptian Communities. – 4.5. Measures Taken and Additional Mechanisms Developed to Safeguard the Roma, Ashkali, and Egyptian Communities against Discrimination. – 4.6. Data of Cases Reported to the National Platform for Anti-Discrimination Measures of the Roma, Ashkali and Egyptian Communities in Kosovo. – 4.7. Discrimination against the Roma, Ashkali, and Egyptian Communities - What Does the Practice of Reported Cases Show? – 4.7.1. The Case of Discrimination against Returned Roma Families. – 4.7.2. Discrimination in the Case of Restricting Freedom of Assembly. – 4.7.3. Cases of Discrimination through Hate Speech Resulting in Criminal Offenses. – 4.7.4. The Case of Discrimination against a Member of the Egyptian Community by the Ministry of Health. – 5. Conclusions.

Keywords: *Non-discrimination, rights, non-majority communities, Roma, Ashkali, Egyptian, Kosovo.*

DETAILS FOR PUBLICATION

Date of submission: 01 Apr 2025

Date of acceptance: 19 May 2025

Online First publication: 03 Jul 2025

Whether the manuscript was fast tracked? – No

Number of reviewer report submitted in first round: 2 reports

Number of revision rounds: 1 round with minor revisions

Technical tools were used in the editorial process:

Plagiarism checks - Turnitin from iThenticate <https://www.turnitin.com/products/ithenticate/>

Scholastica for Peer Review <https://scholasticahq.com/law-reviews>

АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

ДИСКРИМІНАЦІЯ МЕНШИН У КОСОВІ: ПРАКТИЧНІ ВИСНОВКИ З ДОСВІДУ РОМІВ, АШКАЛІВ ТА ЄГИПТЯН

Аделіна Ракай, Мелос Колші*, Александра Кліч та Керіман Садікай

АНОТАЦІЯ

Вступ. Незважаючи на прогресивну конституційну та правову базу, яка гарантує рівність та забороняє дискримінацію, громади ромів, ашкалів та єгиптян у Косові продовжують стикатися із системною та багатогранною дискримінацією майже в усіх аспектах суспільного та приватного життя. Ці громади, хоча й конституційно визнані та захищені як національними, так і міжнародними стандартами, зокрема Європейською конвенцією з прав людини та Рамковою конвенцією про захист національних меншин, залишаються одними з найбільш маргіналізованих груп у Косові. Юридичні документи, такі як Закон про захист від дискримінації та Закон про захист та просування прав громад та їхніх членів, спрямовані на захист цих громад, проте розрив між правовими гарантіями та практичною реалізацією прав залишається суттєвим. Соціально-економічна ізоляція, обмежений доступ до освіти, охорони здоров'я, житла та правосуддя, а також поширені упередження та інституційна недбалість сприяють дискримінації, особливо в постконфліктному та перехідному контексті управління в Косові.

Методи. Це дослідження використовує міждисциплінарний методологічний підхід, поєднуючи нормативно-правовий аналіз з емпіричними даними та оцінками тематичних досліджень. Правовий аналіз зосереджується на конституційних гарантіях, законодавчому захисті та судовій практиці як національних, так і міжнародних судів, включно з Конституційним судом Косова та Європейським судом з прав людини. Емпіричні дані взяті з Національної платформи антидискримінаційних заходів, інституційних звітів, судових вироків та моніторингу громадянського суспільства. Метод тематичного аналізу використовується для виявлення задокументованих випадків дискримінації, починаючи від мови ненависті та відмови в державних послугах до дискримінації при працевлаштуванні та порушень права на освіту. Для того, щоб виявити системні закономірності та недоліки, з'ясувати розбіжність між законом та практикою у статті був здійснений аналіз документів та змісту законодавства, офіційних рішень та звітів про права людини.

Результати та висновки. Результати дослідження показують, що хоча правова та інституційна база Косова формально забезпечує надійний захист від дискримінації, її впровадження є слабким та непослідовним. Маргіналізація громад ромів, ашкалів та єгиптян залишається глибоко вкоріненою через недостатнє забезпечення дотримання правових норм, обмежену інституційну реакцію та низьку обізнаність серед самих громад.

Тематичні дослідження ілюструють форми дискримінації, зокрема відмову в житлі для репатріантів, обмеження права на мирні зібрання, мову ворожнечі, що призводить до насильства, та інституційну упередженість у сфері зайнятості. Звіти показують, що страх помсти та відсутність довіри до інституцій перешкоджають звітності, тоді як відповідальність винних, особливо в державних установах та серед приватних суб'єктів, залишається рідкісним явищем.

Створення таких механізмів, як Національна платформа антидискримінаційних заходів, є позитивним кроком, проте її охоплення та вплив обмежуються недостатнім фінансуванням та просуванням.

У дослідженні було зроблено висновок, що правові гарантії повинні бути доповнені цільовими кампаніями з підвищення обізнаності, орієнтованими на громади, посиленням інституційної підзвітності та позитивними державними заходами для боротьби зі структурною нерівністю. Без політичної волі, постійного нагляду та інклюзивного формування політики дискримінація залишатиметься проблемним питанням для цих громад. Косово має перетворити свої правові зобов'язання на практичні гарантії, що забезпечують гідність, рівність та повну участь громад ромів, ашкалі та єгиптян у всіх сферах суспільного життя.

Ключові слова: недискримінація, права, меншини, роми, ашкалі, єгиптяни, Косово.