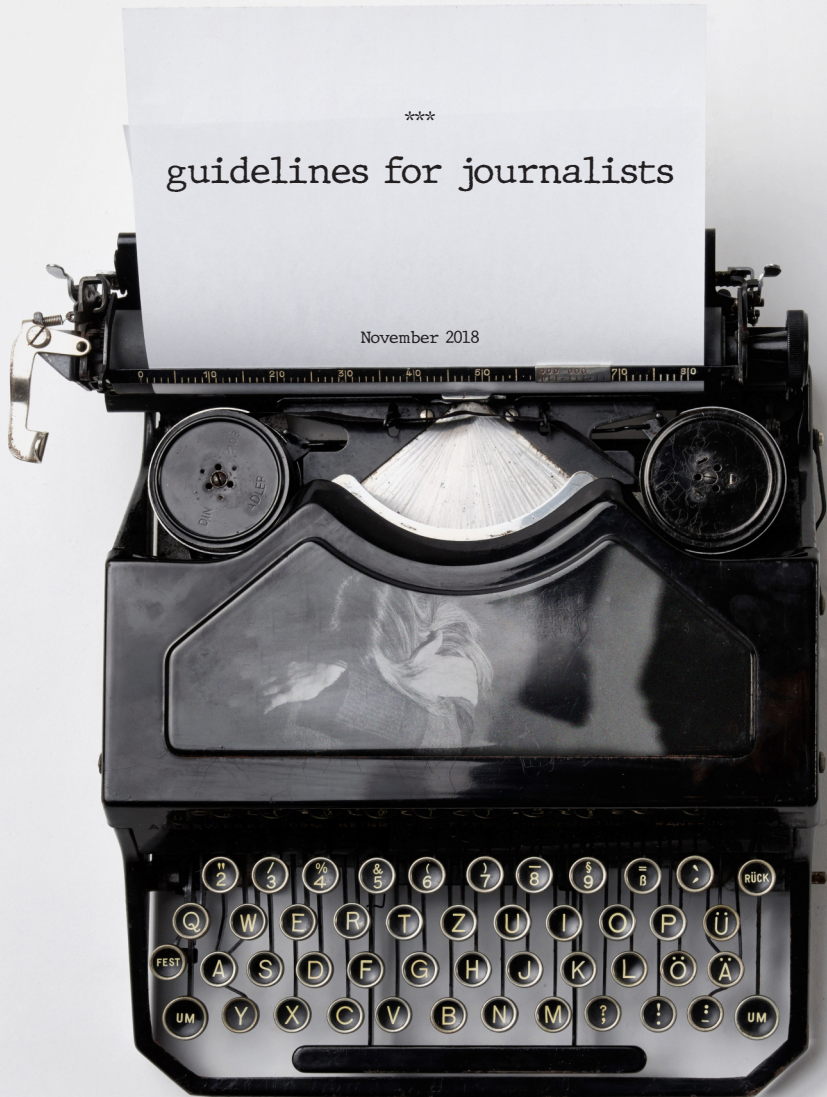


# REPORTING ON DOMESTIC VIOLENCE



# What is Domestic Violence?

There is no universal definition of domestic violence, however in Kosovo it is defined as: *any intentional act or omission that results in abuse, when committed by a person who is or has been in a domestic/family relationship<sup>1</sup> with the victim, such as:*

**Physical abuse:** use of any kind of physical force; any act that may cause or threaten to cause physical pain; physical assault regardless of the consequences; forcibly entering and removing the victim from a common residence or the victim's residence; causing victims to fear for their physical well-being; kidnapping. Abuse includes hitting, burning, slapping and cutting the victim.

**Psychological abuse:** use of psychological pressure; any act that may cause or threaten to cause psychological suffering; provoking a feeling of fear, personal danger or threat of dignity; insult, offence, calling by offensive names and other forms of violent intimidation; repetitive behaviour with the aim of degrading the victim; unlawfully limiting the freedom of movement of the victim, often displaying excessive jealousy and control; causing victims to fear for their emotional well-being.

**Sexual abuse:** non-consensual sexual acts and sexual ill-treatment, such as rape and sexual assault.

**Economic abuse:** expelling from the common household, property damage or destruction or threatening to do this; causing victims to fear for their economic well-being. Threats and coercion are often related to children.

*A victim of domestic violence is a person who suffers from an act of domestic violence, and a perpetrator of domestic violence is a person who commits an act of domestic violence.<sup>2</sup>*

There are **certain characteristics** that help to identify perpetrators of domestic violence including claiming to be the victim and blaming the true victim for the abuse, feeling entitled to use coercive tactics and abusing their partners, excessive jealousy and controlling behaviour, having unrealistic expectations or demands of their partner, using jealousy to justify their actions, often appearing very personable, calm, kind, and even sympathetic. Persons with mental disorders and persons addicted to narcotics and other psychotropic substances are often perpetrators of the crimes associated with domestic violence.

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<sup>1</sup> Law No.03/L-182 on Protection Against Domestic Violence, Assembly of Kosovo, Article 2.1(1.1): Defines this as existing among people who are/were: engaged, married, in an extra marital union, cohabiting in a common household, used a common house and are connected by blood, marriage, adoption, in-law, or are in a guardian relationship, including parents, grandparents, children, grandchildren, nephews, siblings, aunts, uncles or cousins, are parents of a common child, or are procedural parents in a dispute of family relationship: <http://www.assembly-kosova.org/common/docs/ljgjet/2010-182-eng.pdf>

<sup>2</sup> Catalogue of Advice and Assistance for Domestic Violence Victims, OSCE, page 2: <https://www.osce.org/kosovo/88708?download=true>

# Identifying signs of abuse

Identifying a victim of domestic violence is not always easy, however there are certain characteristics commonly displayed by victims of domestic abuse.

**Mental health issues:** Victims of domestic violence commonly suffer from anxiety, suicidal thoughts, depression, low self-esteem, and drug or alcohol problems,

**Personality, behavioural and social changes:** It is extremely common that victims develop a loss of interest in daily activities, and appear quiet and withdrawn; and they may seem anxious or nervous when they are away from the abuser. It is common that victims of domestic violence become isolated from friends and family, often cancelling plans at the last minute, or being late with no explanation. Victims are also commonly excessively private about their personal lives and relationships

**Relationship with their partner:** Controlling behaviour is commonly a sign of abuse, and victims often have to keep answering their phone and keeping their partner informed on where they are, what they are doing, who they are with, and when they will return home.

**Child victims:** Child victims of abuse may appear frightened, timid, anxious, and often extremely well-behaved when the abuser is present. Where economic abuse is present, it is not unusual for victims to have very little of their own money, and they may not have their own bank account or credit card, as many perpetrators control the finances of their family members.

**Physical injuries** associated with domestic violence: Burst lips, black eyes, bruises around the face, neck and arms, and sprained wrists. Domestic violence victims often have unrealistic and inconsistent explanations for their injuries, which are commonly concealed with makeup, and can commonly underplay the seriousness of them.

Domestic violence and partner abuse is about power and control, and as leaving poses such high levels of risk to victims it is important to consider carefully how to best help the victim. Hospitals and schools are particularly important stakeholders in domestic violence, and can serve as useful places where victims of domestic violence can be identified and then referred to the police or shelters.<sup>3</sup> Providing information about the signs of abuse can be an effective means of mobilizing people to recognise and report abuse, either against themselves or others, and to empower victims to make their own decisions. Journalists should emphasise that victims of domestic violence should receive support and encouragement, and it is important not to make them feel judged or pressured, as seeking help and advice requires huge amounts of bravery from the victim.

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<sup>3</sup> OSCE, Catalogue of advice and assistance for domestic violence victims, <https://www.osce.org/kosovo/88708?download=true>

# Common Domestic Violence Myths

There are common myths and misconceptions held by the public concerning domestic violence, especially about women and different communities, and media coverage can often support and perpetuate some of these myths.

**Common myths** include but are not limited to:

*Domestic violence is a result of substance abuse, stress, poverty, failed marriage.*

- This is false: as it implies that those who experience the above perpetrate domestic violence, which reinforces negative stereotypes. Furthermore this makes excuses for perpetrators, who commit domestic violence intentionally as a use of power and control.

*Violence that occurs in the home is often considered a private matter and less serious than violence occurring in public.*

- This is false: violence in the home is at least or 'if not more so' serious and damaging as all other forms of violence and is still a criminal offence.

*Domestic violence is caused by anger management issues*

- This is false: domestic violence is used by someone who is in control of their anger and uses a pattern of behaviour to extend power over another, it is a decision willingly made by the perpetrator.

*Domestic violence is a result of issues in the relationship/family.*

- This is false: This myth trivialises domestic violence and implies the victim was also to blame. Journalists should make it clear the perpetrator was not justified in his actions, and should reinforce that responsibility is solely with the perpetrator.

*Choosing not to leave the perpetrator is often a considered and strategic choice for a victim.*

- This is false: Leaving an environment of domestic violence poses a lot of risks for the victim, it can lead to a loss of income/ employment/ accommodation/ friendship/ support networks, and these risks are heightened if the victim has a child. Leaving may also lead to increased risk of further assault and threats. Placing focus on why the victim didn't leave is victim blaming and takes focus away from the actions of the perpetrator.

# 1. Legal framework

## 1.1 International standards

Domestic violence is recognized in the international legal framework as a violation of three primary human rights:

- **The right to life and security of person** – Article 3 Universal Declaration of Human Rights (UDHR), Article 6 & Article 9 International Covenant on Civil and Political Rights (ICCPR);
- **The right to equality**- Gender based violence was recognised as a form of discrimination by the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW);<sup>4</sup>
- **The prohibition against torture**- The committee against torture affirmed domestic violence is a form of torture.<sup>5</sup>

*“The definition of discrimination includes gender-based violence, [...] directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”*

*“Family violence is one of the most insidious forms of violence against women [...] including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. [...] These forms of violence put women's health at risk and impair their ability to participate in family life and public life on a basis of equality.”*

## 1.2 Legal framework on Domestic Violence in Kosovo

Kosovo institutions and service providers have the obligation to prevent domestic violence, refer cases of domestic violence to Kosovo Police, protect victims of domestic violence, investigate acts of violence, and prosecute and punish perpetrators.<sup>6</sup>

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<sup>4</sup> General Recommendation No.19 by the Committee on the Elimination of Discrimination Against Women (1992) and the Declaration of Elimination of Violence Against Women (1993):

<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

<sup>5</sup> CAT Committee, General Comment No 3: [https://www2.ohchr.org/english/bodies/cat/docs/gc/cat-c-gc-3\\_en.pdf](https://www2.ohchr.org/english/bodies/cat/docs/gc/cat-c-gc-3_en.pdf)

<sup>6</sup> These institutions and service providers are: Kosovo Police, Prosecution offices, Courts, Kosovo Coordinator on Protection from Domestic Violence/ Deputy Minister of the Ministry of Justice, Ministry of Labour and Social Welfare and Centres for Social Work, Victim Protection and Advocacy Office/Victim Advocates, Help line, Health care providers, Ministry of Education, Sciences and technology/ Directorate of Education, Schools, Ombudsperson/gender equality department, Shelters, Civil Society

## 1.2.1 Criminal Proceedings

The provisions related to the domestic violence protection in Kosovo are enshrined in the Criminal Code, the Law on Protection against Domestic Violence, the Criminal Procedure Code, the Code of Justice for Minors, and the Law on Execution of the Criminal Sanctions. Domestic violence is not a standalone criminal offence in the Criminal Code<sup>7</sup> and victims are not criminally liable for failure to report preparation of criminal offences,<sup>8</sup> and providing assistance to perpetrators after the commission of criminal offences.<sup>9</sup>

What does this mean? – In the event that domestic violence occurs and is reported, the perpetrator will be potentially charged with other crimes under the Criminal Code, such as:

- *Article 185 - Threat;*
- *Article 186 - Harassment;*
- *Article 187 - Assault;*
- *Article 188 - Light bodily injury;*
- *Article 189 - Grievous bodily injury;*
- *Article 196 - Unlawful deprivation of liberty;*
- *Article 199 - Torture;*
- *Article 230 - Rape;*
- *Article 232 - Sexual assault;*
- *Article 233 - Degradation of sexual integrity;*
- *Article 243 - Sexual relations within the family;*
- *Article 385 - Failure to report preparation of criminal offenses;*
- *Article 388 - Providing assistance to perpetrators after the commission of criminal offenses.*

Article 74 of the Criminal Code provides for General rules on mitigation or aggravation of punishments, including provisions related to domestic violence, such as whether the criminal offence was committed with particular cruelty,<sup>10</sup> and the presence of actual or threatened violence in the commission of the criminal offence.<sup>11</sup> Article 24 of the Law on Protection against Domestic Violence sets out the responsibilities of Kosovo Police, including arresting the alleged perpetrator according to the law, and using reasonable means to protect the victim and prevent further violence.<sup>12</sup>

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<sup>7</sup> The Assembly of Kosovo is in the process of adopting a new Criminal Code under revision, which includes domestic violence as an offence. See draft law [http://lijet.assembly-kosova.org/Uploads/Data/Documents/74ProjektKodiPenaliKosoves\\_8FdPc8D4YT.pdf](http://lijet.assembly-kosova.org/Uploads/Data/Documents/74ProjektKodiPenaliKosoves_8FdPc8D4YT.pdf) (article 248)

<sup>8</sup> Criminal Code, Article 385: <http://www.assembly-kosova.org/common/docs/lijet/Criminal%20Code.pdf>

<sup>9</sup> Criminal Code, Article 388: <http://www.assembly-kosova.org/common/docs/lijet/Criminal%20Code.pdf>

<sup>10</sup> Criminal Procedure Code, Article 74(2.9):

<https://www.kuvendikosoves.org/common/docs/lijet/Criminal%20Procedure%20Code.pdf>

<sup>11</sup> Criminal Procedure Code, Article 74(2.3):

<https://www.kuvendikosoves.org/common/docs/lijet/Criminal%20Procedure%20Code.pdf>

<sup>12</sup> Law No.03/L –182 On Protection Against Domestic Violence, Assembly of Kosovo, Article 24: <http://www.assembly-kosova.org/common/docs/lijet/2010-182-eng.pdf>



There are several aspects that journalists should ensure they are covering when reporting on the criminal proceedings of domestic violence, including but not limited to:

- *The time frame between the victim reporting the abuse to the police and action taken;*
- *The time taken to locate and arrest the perpetrator;*
- *Has the victim previously reported the perpetrator to the police? Was it taken seriously before?*
- *Whether or not there is a male/female balance at the police station?*
- *Was the victim offered a shelter and/or police protection, including for their children?*
- *If there are allegations of sexual violence, was the correct procedure carried out when it was reported?*
- *Are the victim's allegations being taken seriously?*
- *Was the victim informed of their rights?*
- *Was a protection order issued for the victim by police or victim advocates?*
- *Does the perpetrator have a history of violence?*
- *Are there sufficient translation services available if the victim is from a non-majority community?*
- *Was the victim treated with respect and sensitivity?*
- *Was the victim offered medical services?*
- *Are the human rights of the defendant being respected? (See section: 4.3. The Right to a fair trial)*
- *Were all elements of the abuse covered if it goes to trial? – for example a court case could leave out the emotional abuse aspects of a case*
- *Were there any witnesses?*
- *Journalists should look at whether or not the court is describing the crime as 'domestic violence' or as simply 'assault' for example.*

### 1.3 Accessing Court information

Freedom of expression includes a right of access to information at disposal of public bodies, including the courts, except regarding sensitive data.<sup>13</sup> When applying for access, the journalist should not be obliged to state their reasons for access. Domestic Violence information is categorised as 'sensitive data', and must be specifically protected and classified. Therefore, personal data relating to criminal convictions and offences must only be processed under the control of official authority, providing for appropriate safeguards. Sensitive personal data, such as the identity of a victim may only be processed in certain circumstances, such as substantial public interest.<sup>14</sup>

Criminal trials in Kosovo are required to have a written record of the proceedings under Article 315 of the Criminal Procedure Code.<sup>15</sup> This right of access to information is limited by law primarily for one of the following reasons: Privacy, business trade secrets, or security classification.<sup>16</sup>

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<sup>13</sup> Kosovo Legal Framework, Article 41(1): <http://www.kryeministriks.net/repository/docs/Constitution1Kosovo.pdf>

<sup>14</sup> Article 6(1) 1.8: <https://www.afapdp.org/wp-content/uploads/2012/01/Law-on-Personal-Data-Protection-Kosovo.pdf>

<sup>15</sup> Criminal Procedure Code, Article 315:

<https://www.kuvendikosoves.org/common/docs/liqjet/Criminal%20Procedure%20Code.pdf>

<sup>16</sup> Legal Framework, Article 41(2): <http://www.kryeministriks.net/repository/docs/Constitution1Kosovo.pdf>

Once trials have commenced, the judgement of the court is published, except where its publication would endanger an official secret, the privacy of persons or the morals of society.

## 1.4 Attending Criminal trials

Criminal trials in Kosovo are, as a rule, open to the media and the public, and journalists have the right to attend main trials in Kosovo in order to maintain the transparency of justice and accountability. Courts must make trial schedules available to journalists, and when such information is not available, journalists should contact the relevant Public Information Officer of the respective court and request that such information be made readily available.<sup>17</sup> The court has the power to regulate its own proceedings and in exceptional circumstances may conduct a trial session or part of it, in a closed session. Article 294 of the Criminal Procedure Code sets out the reasons whereby the public and press can be excluded from court proceedings.<sup>18</sup>

These reasons include:

- *Protecting official secrets;*
- *Maintaining the confidentiality of information and personal data protection that would be jeopardized by a public hearing;*
- *Maintaining law and order;*
- *Protecting the personal life or family life of the accused, the injured party or other participants in the proceedings;*
- *Protecting the interests of children; or*
- *Protecting injured parties, cooperating witnesses or other witnesses covered by the Code.*

If the court excludes the media and public from a trial, it should provide written reasons for doing so.<sup>19</sup> All criminal trials in Kosovo are subject to video and audio recording by the media, unless the judge rules that recording is not allowed, through a reasoned, written decision. Before a journalist is denied access to a courtroom for recording purposes, he/she should consult any administrative guidelines and/or regulations on this matter, published by Kosovo Judicial Council.<sup>20</sup>

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<sup>17</sup> Basic Legal Handbook for Journalists in Kosovo – page 39-40

<sup>18</sup> Criminal Procedure Code, Article 294:

<https://www.kuvendikosoves.org/common/docs/liqjet/Criminal%20Procedure%20Code.pdf>

<sup>19</sup> Criminal Procedure Code, Article 296:

<https://www.kuvendikosoves.org/common/docs/liqjet/Criminal%20Procedure%20Code.pdf>

<sup>20</sup> Criminal Procedure Code, Article 301(3)

<https://www.kuvendikosoves.org/common/docs/liqjet/Criminal%20Procedure%20Code.pdf>



## 2. Civil proceedings

The Law on Protection against Domestic Violence provides a set of legal measures aiming to protect domestic violence victims. It defines domestic violence and domestic relationships, explains which kind of protection measures and orders exist, and the procedures to follow in order to obtain them.

Individuals who are subjected to domestic violence are eligible for protection orders, emergency protection orders, and temporary emergency protection orders.<sup>21</sup> Protection orders include prohibiting the domestic violence perpetrator from approaching the victim,<sup>22</sup> removal of the perpetrator from the living premises,<sup>23</sup> accompanying of the victim during collection of personal items,<sup>24</sup> and the temporary removal of parental right from the perpetrator.<sup>25</sup>

There are certain important things that should be considered by journalists:

- Was the victim provided protection timely and sufficiently?
- Was the correct type of protection order granted?
- If a protection order was refused, was it justifiable?
- Was the victim treated with respect and sensitivity?
- Are there sufficient translation services available at shelters if the victim is from a non-majority community?
- Is the referral system efficient?
- Are there adequate and sufficient facilities at the shelter for children?
- Is the shelter sufficiently and un-interruptedly funded?
- Is the shelter offering sufficient rehabilitation and integration projects?
- Are the victim's allegations being taken seriously?
- If the victim has special requirements, are these being addressed?

Kosovo Strategy on Protection from Domestic Violence and Action Plan 2016-2020 provides guidance for Journalists on reporting on the cases of domestic violence that undergo civil procedure i.e. request for a protection order or emergency protection order, and it addresses important issues such as the lack of co-operation among institutions dealing with domestic violence, gaps in the referral system and the lack of infrastructure to support victims.<sup>26</sup> Critical observation is one of the main obligations of the press, and journalists should not shy away from criticism of shortcomings of procedures and/or facilities.<sup>27</sup>

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<sup>21</sup> Law No.03/L –182 On Protection Against Domestic Violence, Assembly of Kosovo, Article 1.3: <http://www.assembly-kosova.org/common/docs/ligjet/2010-182-eng.pdf>

<sup>22</sup> Law No.03/L –182 On Protection Against Domestic Violence, Assembly of Kosovo, Article 5: <http://www.assembly-kosova.org/common/docs/ligjet/2010-182-eng.pdf>

<sup>23</sup> Law No.03/L –182 On Protection Against Domestic Violence, Assembly of Kosovo, Article 7: <http://www.assembly-kosova.org/common/docs/ligjet/2010-182-eng.pdf>

<sup>24</sup> Law No.03/L –182 On Protection Against Domestic Violence, Assembly of Kosovo, Article 8: <http://www.assembly-kosova.org/common/docs/ligjet/2010-182-eng.pdf>

<sup>25</sup> Law No.03/L –182 On Protection Against Domestic Violence, Assembly of Kosovo, Article 6.2: <http://www.assembly-kosova.org/common/docs/ligjet/2010-182-eng.pdf>

<sup>26</sup> Strategy on Protection from Domestic Violence and Action Plan 2016-2020, Page 30: <https://abgj.rks-gov.net/Portals/0/Strategjia%20Kombëtare%20e%20RK%20për%20mbrojtje%20nga%20dhuna%20one%20familje%202016-2020.pdf>

<sup>27</sup> Press Code of Kosovo, Article I (5): [http://presscouncil-ks.org/wpcontent/uploads/2015/04/Statute\\_PCK\\_English.pdf](http://presscouncil-ks.org/wpcontent/uploads/2015/04/Statute_PCK_English.pdf)

### 3. Domestic violence victims

Domestic violence is not limited to physical abuse, and the effects on the victim can extend to mental and emotional trauma. Domestic violence occurs in family contexts, and the negative effects commonly affect children, even if they do not actually witness any violence. Child victims of domestic violence are at increased risk of developing serious emotional, behavioural and developmental problems.

Victims of crimes have the right to special protection of their identity for safety and privacy reasons,<sup>28</sup> and information should only be published in exceptional circumstances, such as public interest.<sup>29</sup> This is particularly important in cases of domestic violence, where the victim may potentially suffer serious and potentially fatal consequences if their identity is revealed. Journalists should ensure that when they are reporting that the safety of the victim is one of their primary concerns and always consider the potential harmful effects of identifying individuals in domestic violence cases.

- *The identity of a victim under the age of fifteen should never be published under any circumstances, and this restriction also applies for witnesses and defendants.*<sup>30</sup>
- *The identity of victims of rape should never be published.*
- *Photographs of bodies of the deceased should never be published.*<sup>31</sup>

If publishing the name of the defendant or suspect will lead to identification of the victim, if for example they are related, then the journalist should take extra caution and refrain from publishing the name of the suspect/defendant. It is for the media to form its own judgment as to whether naming a defendant would be likely to identify the victim of the offence.<sup>32</sup> Information that identifies a friend or relative of the defendant/suspect who is not related to the proceedings should not be published.

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<sup>28</sup> Charter of Fundamental Rights of The European Union, Article 8:  
[http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf)

<sup>29</sup> Convention for the Protection of Individuals with regard to Automatic

Processing of Personal Data 108/GDPR, Article 9 : <https://rm.coe.int/1680078b37>

<sup>30</sup> Press Code, Article VI (2): [http://presscouncil-ks.org/wp-content/uploads/2015/04/Statute\\_PCK\\_English.pdf](http://presscouncil-ks.org/wp-content/uploads/2015/04/Statute_PCK_English.pdf)

<sup>31</sup> Basic Legal Handbook for Journalists in Kosovo- page 43

<sup>32</sup> *R (Press Association) v Cambridge Crown Court* [2012] EWCA Crim 2434, [2013] 1 WLR 1979, paras 15-17

### 3.1. Questioning Victims

When questioning a victim of domestic violence, journalists should consider the following:

- *Victims who suffer mental and emotional trauma may feel guilt or responsibility for what they have suffered, and may question their own judgement;*
- *Journalists should ensure they do not ask whether or not the victim provoked the perpetrator, as domestic violence is about power and control – not about anger;*
- *Unless it is directly an issue in the case, journalists should not focus on whether or not the victim was drinking or taking drugs – these questions would not be asked to a victim of a burglary, and perpetrate victim blaming;*
- *Children under the age of fifteen should not be interviewed or photographed, without the consent of a parent or responsible adult for the child;<sup>33</sup>*
- *If it is clear the victim is uncomfortable, the journalist should re-evaluate their questions, as certain topics may resurface the victim's trauma;<sup>34</sup>*
- *Report on domestic violence in a way that upholds the survivor's right to dignity, and give them as much time as possible to tell their story;*
- *Check with them that you have consent to disclose elements of their story, and where possible, give them the opportunity to review a copy before publishing it.*

Journalists should never ask the victim why they did not leave their partner, as there are a number of legitimate reasons why victims stay in abusive relationships. Leaving is often the most dangerous time for a victim and their children, and violence and sexual assaults increase dramatically during separation. Perpetrators often carry out tactics of emotional manipulation to prevent the victim from leaving, such as threatening to harm the children or commit suicide. Economic dependence is also a significant factor in why victims often do not leave, and due to isolation tactics, many victims are cut off from family and friends and do not have access to support networks.

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<sup>33</sup> Press Code, Article VI (1): [http://presscouncil-ks.org/wp-content/uploads/2015/04/Statute\\_PCK\\_English.pdf](http://presscouncil-ks.org/wp-content/uploads/2015/04/Statute_PCK_English.pdf)

<sup>34</sup> Press Code, Article VII (2): [http://presscouncil-ks.org/wp-content/uploads/2015/04/Statute\\_PCK\\_English.pdf](http://presscouncil-ks.org/wp-content/uploads/2015/04/Statute_PCK_English.pdf)

# 4. Important things to consider

## 4.1. Sources

It is extremely important that journalists consider the sources they use, and it is common practice to use police as primary sources, alongside neighbours, friends and family members. However, journalists should also include quotes from domestic violence experts, particularly from communities where the violence has occurred, as the analysis provided can help dispel myths and misconceptions. If using domestic violence advocates as sources, journalists should ensure they ask for information about services available in different areas, and ask about context.

If using the police as a source, journalists should ensure they are following up with them and questioning them on the progress they are making; however the information they provide can often be limited. If relying on friends/family/neighbours as a source, it is important to remember that they are often biased due to their close relationships with the victim or perpetrator. Whilst they can provide helpful opinions and insight into the situation regarding history and context, their opinion should not be presented as fact, and journalists should ensure they clearly differentiate between fact and opinion.<sup>35</sup>

If sources provide information under the assurance that their identity is protected, then the source should always be kept anonymous.<sup>36</sup> Generally journalists in Kosovo have the right to protect their sources and remain silent without criminal liability.<sup>37</sup> Furthermore, journalists cannot be obliged to reveal their sources of information or give materials that may reveal: the identity of the source, the nature or origin of the information given, the identity of an author of a text or audio-visual production, or the content of the document of information if it may lead to identification of the source.<sup>38</sup> Revealing sources can discourage people from providing information to journalists, and can affect the ability of journalists in reporting on justice and satisfying the public trial element of the right to a fair trial.

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<sup>35</sup> Press Code, Article III (4): [http://presscouncil-ks.org/wp-content/uploads/2015/04/Statute\\_PCK\\_English.pdf](http://presscouncil-ks.org/wp-content/uploads/2015/04/Statute_PCK_English.pdf).

<sup>36</sup> Press Code, Article III (3): [http://presscouncil-ks.org/wp-content/uploads/2015/04/Statute\\_PCK\\_English.pdf](http://presscouncil-ks.org/wp-content/uploads/2015/04/Statute_PCK_English.pdf). This obligation exists whether or not the source has explicitly requested confidentiality

<sup>37</sup> Criminal Code, Article 38: <http://www.assembly-kosova.org/common/docs/liqjet/Criminal%20Code.pdf>

<sup>38</sup> Assembly of Kosovo Laws: Law No. 04/L-137 on the Protection of Journalism Sources, Articles 4.1.1 – 4.1.4: <https://www.kuvendikosoves.org/common/docs/liqjet/Law%20on%20the%20protection%20of%20the%20journalism%20sources.pdf>

It is only deemed necessary for a journalist to identify a source if:

- *It can be established that reasonable alternative measures to the disclosure do not exist, or the legitimate interest in the disclosure clearly outweighs the public interest in the non-disclosure;*<sup>39</sup>
- *Only at the request of a competent court, and if the identity is necessary to prevent a threat to physical integrity which could lead to the death of one or more persons.*

## 4.2. Witnesses

It is important to exercise caution when reporting on witnesses involved in domestic violence cases. At any stage of the proceedings, the judge may order for protective measures against a witness if they determine that there exists a serious risk, and the protective measure is necessary to prevent serious risk.<sup>40</sup> Journalists should also exercise caution even for those witnesses who are not under protection orders, and should never disclose their identity where it endangers their lives or security.

Revealing information on the identity or personal data of a person under protection in the criminal proceedings or in a special program of protection without authorization has a punishment of imprisonment of up to five years.<sup>41</sup> If the offense results in serious consequences for the person under protection, or the criminal proceedings are made impossible or severely hindered, the perpetrator shall be punished by imprisonment of six months to five years.<sup>42</sup>

The identity of witnesses should only be revealed for the following reasons:<sup>43</sup>

- *The witness is competent and has given consent to his/her identity being revealed;*
- *Their identification is a public concern;*
- *The testimony has already been given in public.*

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<sup>39</sup> Council of Europe Committee of Ministers Recommendations, CM/Rec(2000)7: Principle 3(b) on 'Limits to the right of non-disclosure': [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016805e2fd2](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805e2fd2)

<sup>40</sup> Criminal Procedure Code, Article 221: <http://www.assembly-kosova.org/common/docs/liqjet/Criminal%20Code.pdf>

<sup>41</sup> Criminal Code, Article 400: <http://www.assembly-kosova.org/common/docs/liqjet/Criminal%20Code.pdf>

<sup>42</sup> Criminal Procedure Code, Article 400: <http://www.assembly-kosova.org/common/docs/liqjet/Criminal%20Code.pdf>

<sup>43</sup> Council of Europe Committee of Ministers Recommendations, CM/Rec(2003)13: Principle 16 on 'Protection of witnesses': [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016805df617](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805df617)

### 4.3. The Right to a fair Trial

It is extremely important that journalists take into account the human rights of the defendant, and the presumption of innocence is fundamental to this.<sup>44</sup> If there are any doubts regarding the facts relevant to the case, they should always be interpreted in favour of the defendant and their rights.<sup>45</sup> This right applies to all defendants equally, no matter how high or low profile they may be, and no matter what the alleged crime is.

The individual suspected or charged with a criminal offence should be presumed innocent until their guilt has been established by a final judgement of the court.<sup>46</sup> This can be done by simply inserting the word 'alleged' into a sentence, for example: 'The defendant **allegedly** assaulted the victim', rather than 'the defendant assaulted the victim'. The press may call a person a perpetrator if he/ she has made a confession and there is also evidence against that he/she committed the crime in public view.<sup>47</sup> However journalists should ensure that they are striking a balance between the presumption of innocence, and making excuses for the perpetrator.

It is also important that journalists ensure they use the correct terminology when describing the perpetrator, as a person "suspected" of a crime has a different status than a person "accused" of a crime. Suspects are generally arrested by police before the Prosecutor becomes involved, and individuals achieve the status of 'accused' once they are indicted and the criminal proceedings begin. The press should only publish names, photographs and information enabling the identification of suspects if the legitimate interest of the public outweighs the interests worthy of protection of the persons.

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<sup>44</sup> Under ICCPR Article 14 (2) and ECHR Article 6 (2), citizens charged with a criminal offence shall have the right to be presumed innocent until proved guilty, Kosovo Legal Framework Article 31(5)  
Right against Self-Incrimination: Under Article 14 (3) of the ICCPR, and Kosovo Criminal Procedure Code: Article 3.

<sup>45</sup> Criminal Procedure Code, Article 3.2: <http://www.assembly-kosova.org/common/docs/liqjet/Criminal%20Code.pdf>.

Kosovo Legal Framework, Article 31: <http://www.kryeministriks.net/repository/docs/Constitution1Kosovo.pdf>

<sup>46</sup> Kosovo Legal Framework, Article 5: <http://www.kryeministriks.net/repository/docs/Constitution1Kosovo.pdf>

Criminal Code, Article 3: <http://www.assembly-kosova.org/common/docs/liqjet/Criminal%20Code.pdf>

<sup>47</sup> German Press Code, Section 13 on Presumption of Innocence: Guideline 13.1 on Prejudice:

[http://www.presserat.de/fileadmin/user\\_upload/Downloads\\_Dateien/Pressekodex2017english.pdf](http://www.presserat.de/fileadmin/user_upload/Downloads_Dateien/Pressekodex2017english.pdf)



## 5. The media and domestic violence

The news media is a powerful force in shaping public perception about domestic violence, and media coverage can help to raise awareness, understanding and compassion, and can help mobilize communities in taking steps to prevent it. A recent study has established clear links between media reporting and how the receiving community views the issue at hand.<sup>48</sup> Therefore it is imperative that journalists take all steps necessary to ensure they are not disseminating incorrect, misleading, victim blaming, or insensitive material regarding domestic violence.

Independence and impartiality are two of the general principles of the judicial system,<sup>49</sup> and these should be respected by journalists and reflected in their publishing. Journalists must act appropriately during police investigations and ongoing proceedings, in order to avoid jeopardizing an objective inquiry. Professional journalists cannot ethically report stories involving family or friends due to the risk of bias and/or conflict of interest.<sup>50</sup> They should also refrain from accepting work from an individual who works for the court or the police,<sup>51</sup> as this poses a conflict of interest and prevents a balanced report. Journalists should also remain balanced by ensuring they are not influenced by accepting gifts, invitations or discounts. They should insist that information is given regardless of the acceptance of a gift or invitation, and they should not accept any that have an unusual or excessive value.<sup>52</sup>

### 5.1. Providing context

It is not enough to simply report facts; journalists should include context in their reporting as this will facilitate understanding about the social power relations and structures that allow widespread levels of abuse to occur. Abuse takes place in often extremely controlling environments, and there are commonly aspects of social, economic and political contexts that contribute to such environments, as these influence individual behaviours.<sup>53</sup>

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<sup>48</sup> National Child Protection Clearing House, The role of mass media in facilitating community education and child abuse prevention strategies, page 6: <https://aifs.gov.au/cfca/sites/default/files/publication-documents/issues16.pdf>

<sup>49</sup> Kosovo Legal Framework, Article 102: <http://www.kryeministriks.net/repository/docs/Constitution1Kosovo.pdf>

<sup>50</sup> Basic Legal Handbook for Journalists in Kosovo, page 41

<sup>51</sup> Basic Legal Handbook for Journalists in Kosovo, page 41

<sup>52</sup> German Press Code, Section 15 on Preferential Treatment: Guideline 15.1 on Invitations and Gifts:

[http://www.presserat.de/fileadmin/user\\_upload/Downloads\\_Dateien/Pressekodex2017english.pdf](http://www.presserat.de/fileadmin/user_upload/Downloads_Dateien/Pressekodex2017english.pdf)

<sup>53</sup> Analysing Domestic Violence Behaviours in their contexts: Violence as a continuation of social strategies by other means, Bernard Guerin, *University of South Australia* Marcela de Oliveira Ortolan Universidade Estadual de Londrina, page 6: <http://journals.uic.edu/ojs/index.php/bsi/article/view/6804>

Women are at a greater risk of suffering domestic violence, particularly in the context of partner abuse, which is the most prevalent form of abuse. Domestic violence as a form of gender violence is particularly an issue in Kosovo, as research undertaken indicated it predominantly targets women due to their gender.<sup>54</sup> Journalists should ensure they do not ignore or underplay the gender aspects of domestic violence, and that it disproportionately occurs against women and with male perpetrators. Journalists can provide context by identifying certain risk factors, providing information about the prevalence, dynamics, impacts, and laws around domestic violence.

Research undertaken in 2014 and 2016<sup>55</sup> indicated that there were many forms of abuse that members of the public did not consider to be domestic violence, with 48.2% of respondents stating that controlling where a family member can or cannot go was not a form of violence.<sup>56</sup> The opinions of men and women did not differ drastically,<sup>57</sup> indicating that many victims of domestic violence will not realise that they are being subjected to abuse. Male victims are generally victims of other family members rather than spouses,<sup>58</sup> and are less likely to report abuse. Lack of education regarding the gender dynamics and stereotypes of domestic violence and its controlling nature can be a significant contribution to stigma. The majority of strategies carried out by perpetrators would not work without societal acceptance and it is broader social and political contexts that perpetuate this.<sup>59</sup> Journalists can also shed light on these environments by highlighting that only 10% of incidents are reported, and that the prevalence of domestic violence is not to be underestimated.

Generally, ethnicity, religion or membership of a minority group should not be mentioned to ensure no discriminatory generalization and prejudice unless in the legitimate interest of the general public.<sup>60</sup> Whilst domestic violence exists in every community and at every societal level, cultural and societal values contribute to the commission of domestic violence and therefore cannot be ignored as they are in the legitimate interest of the public. If domestic violence is more prevalent in certain communities or regions then this should be included in stories, and statistics are useful in providing context.

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<sup>54</sup> Security Begins at Home, Research to Inform the First National Strategy and Action Plan against Domestic Violence in Kosovo, page 7: <http://www.womensnetwork.org/documents/20130715145730743.pdf>

<sup>55</sup> Protection for victims of domestic violence in Kosovo, 2016, page 5:<http://iris-see.eu/wp-content/uploads/2016/10/web-Kosovo-1.pdf>

<sup>56</sup> Security Begins at Home, Research to Inform the First Strategy and Action Plan against Domestic Violence in Kosovo, page 13-15: <http://www.womensnetwork.org/documents/20130715145730743.pdf>

<sup>57</sup> Security Begins at Home, Research to Inform the First Strategy and Action Plan against Domestic Violence in Kosovo, page 13-14: <http://www.womensnetwork.org/documents/20130715145730743.pdf>

<sup>58</sup> Protection for victims of domestic violence in Kosovo, 2016, page 5:<http://iris-see.eu/wp-content/uploads/2016/10/web-Kosovo-1.pdf>

<sup>59</sup> Analysing Domestic Violence Behaviours in their contexts: Violence as a continuation of social strategies by other means, Bernard Guerin, *University of South Australia* Marcela de Oliveira Orotlan Universidade Estadual de Londrina, page 22: <http://journals.uic.edu/ojs/index.php/bsi/article/view/6804>

<sup>60</sup> German Press Code, Section 12 on Discrimination: Guideline 12.1 on Reporting on Crimes: [http://www.presserat.de/fileadmin/user\\_upload/Downloads\\_Dateien/Pressekodex2017english.pdf](http://www.presserat.de/fileadmin/user_upload/Downloads_Dateien/Pressekodex2017english.pdf)

# Important considerations

It is extremely important that **journalists consider the following:**

- *Sensationalizing and embellishing the facts for a more hard hitting story is unethical and insensitive, and does not serve the interests of the victim or the public;*
- *Always use 'domestic violence', it should not be trivialized as simply 'disputes' or 'assault', as this minimizes the situation and the trauma of the victim;*
- *If the domestic violence occurred in a small area where identification can easily occur, it is advisable to leave out the name of the town or village, as this may put the victim at risk;*
- *Journalists should be explicit about the relationship between the parties concerned, and specify whether they were a couple or relatives;*
- *Acknowledge that this crime has both a victim and a perpetrator - Domestic violence is sometimes reported with headlines like 'Woman assaulted', it must be acknowledged as a crime;*
- *Most of the time domestic violence is perpetrated by someone known to the survivor;*
- *Sexual violence inflicted by a spouse or partner is still sexual violence, and should not be denied as such. Being in an intimate relationship does not automatically mean there was consent.*
- *It is crucial that journalists ensure they fact check any allegations they publish, ensure as high a level of accuracy as possible, and refrain from presenting rumours as hard evidence.*

## 6. Information on shelters and helplines

At the end of stories it is advisable for the journalist to share resources, such as details for crisis centres and shelters, or helplines that victims can ring.

There are currently 7 licensed shelters in Kosovo that provide a safe place where victims of domestic violence and their children are granted with temporary accommodation, safety, advocacy and other services.<sup>61</sup> They are situated in: Gjilan/Gnjilane, Prishtinë/Priština, Pejë/Peć, Gjakovë/Đakovica, Prizren, Mitrovicë/Mitrovica South, Ferizaj/Uroševac and Novobërdë/Novo Brdo (2018).<sup>62</sup> There are currently no shelters operating in Kosovo's northern municipalities. Social and family services may also be contracted out by municipalities to Non-Governmental Organizations,<sup>63</sup> and medical services are also available for those who experience domestic violence.<sup>64</sup>

Kosovo Police are obliged to refer and send victims to shelters, however referral can also be made by another institution, or victims may do so of their own volition.<sup>65</sup> The referral and provision of assistance to victims is to be conducted without any discrimination on grounds of gender, colour, language, religion, political opinion or other, social origin or nationality, property, birth or any other status.<sup>66</sup> However, despite many shelter staff members being fluent in both official languages, shelters do not offer information other than in Albanian, limiting access for many in Kosovo non-majority communities. Boys over the age of 12 cannot accompany their mothers, and men cannot be referred to shelters, even if they are victims of domestic violence.

During the first 48 hours of admission, shelters implement a 'reflection period', providing immediate access to safe accommodation and individual reintegration plans are carried out. Whilst at shelters, victims are provided with clothing, food, basic medical care, psycho-social counselling, legal advice (including completing the request for a protection order for the victim), recreational and training activities and 24-hour security and care.

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<sup>61</sup> Agency for Gender Equality: [Standard Operating Procedures for Protection from Domestic Violence](#) (Prishtinë/Priština, 2013), page 10.

<sup>62</sup> Novobërdë/Novo Brdo shelter is run by the K-Serb non-majority community; however, due to ongoing licensing process it has not been operational, as most of the qualified K-Serb social workers have obtained their professional credentials in Serbia.

<sup>63</sup> Council of Europe, [Mapping support services for victims of violence against women in Kosovo](#), (Prishtinë/Priština 2017), page 28.

<sup>64</sup> Law No.03/L –182 On Protection Against Domestic Violence, Assembly of Kosovo, Article 27: <http://www.assembly-kosova.org/common/docs/liqjet/2010-182-eng.pdf>

<sup>65</sup> Ministry of Justice: [Strategy on Protection from Domestic Violence and Action Plan 2016-2020](#), (Prishtinë/Priština, 2016), page 22.

<sup>66</sup> Agency for Gender Equality: [Standard Operating Procedures for Protection from Domestic Violence](#) (Prishtinë/Priština, 2013), page 24.

Victims with special needs or disabilities are also entitled to special treatment, and shelters are expected to accompany the victim to court, the police station, and the hospital and forensics unit.

Protection measures of psycho-social treatment may be issued to a perpetrator in combination with any other preventative measure in order to elude their violent behaviour and prevent a repeat of domestic violence.<sup>67</sup> The perpetrator may also be subject to mandatory medical treatment from alcohol and psychotropic substance dependency where there is a risk of repeating domestic violence.<sup>68</sup> Currently, shelters face a lack of sustainable funding, constituting their main challenge in their daily operations and provision of services to victims.<sup>69</sup>

Currently, 40 Centres for Social Work exist in Kosovo, which are professional public institutions operating at the municipality level, that provide a number of social services to people in need, in particular for minors and individuals who lack the capacity to act on their own.<sup>70</sup> These Centres provide social protections with two basic functions: the provision of professional social services for individuals and families in social need and the provision of cash benefit schemes (distribution of social assistance for poor families). This care is administered in the form of residential, day care and community care services.<sup>71</sup> In relation to domestic violence, the Centres provide assistance in a number of ways, including conducting needs assessments, submitting requests for protection orders, providing psycho-social and legal counselling<sup>72</sup> to victims, and dealing with child protection and safeguarding.

It is also useful to provide information about the helpline: **080011112**, which provides assistance to victims of crime by supplying them with the necessary information and contact numbers, including information on domestic violence, sexual abuse and trafficking.<sup>73</sup> This helpline provides an opportunity for the general public and victims to report crimes related to domestic violence and trafficking in human beings.

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<sup>67</sup> Law No.03/L –182 On Protection Against Domestic Violence, Assembly of Kosovo, Article 4: <http://www.assembly-kosova.org/common/docs/liqjet/2010-182-eng.pdf>

<sup>68</sup> Law No.03/L –182 On Protection Against Domestic Violence, Assembly of Kosovo, Article 9: <http://www.assembly-kosova.org/common/docs/liqjet/2010-182-eng.pdf>

<sup>69</sup> The Ombudsperson Institution plays a key role in supporting domestic violence victims through addressing shortcomings in relation to human rights violations by public institutions in Kosovo

<sup>70</sup> OSCE, Catalogue of advice and assistance for domestic violence victims,

<https://www.osce.org/kosovo/88708?download=true>

<sup>71</sup> This information can also be provided to different audiences, such as media, institutions, international organizations, NGOs and the general public

<sup>72</sup> Save The Children, Need Assessment for Centre for Social Work in three municipalities of Kosovo, in Pristina, Ferizaj and Klina, page 16: <https://kosovo.savethechildren.net/sites/kosovo.savethechildren.net/files/library/Need%20Assessment%20for%20Centre%20for%20Social%20Work%20in%20three%20municipalities%20of%20Kosovo%2C%20In%20Pristina%2C%20Ferizaj%20and%20Klina.pdf>

<sup>73</sup> Legal counselling is also available through District Legal Aid Bureaus, which provide free legal aid to qualifying victims, including representation before courts or administrative bodies.

<sup>74</sup> This information can also be provided to different audiences, such as media, institutions, international organizations, NGOs and the general public

Journalists can offer support not only to victims, but also to friends, families, and co-workers of domestic violence victims by providing information about appropriate action to take. This information can be provided at the end of an article, and it is advisable to always include the helpline number in all publications related to domestic violence, as it is common for victims to feel apprehensive about contacting the police.

For example, the following could be copied and pasted into a publication:

*“If you suspect someone you know is suffering from domestic violence then it is advisable to call the toll-free helpline: **080011112** which provides advice and referral to the Victims Advocates and Assistance Office within the Chief Prosecutor’s Office, for assistance and protection. If you believe that you or someone you know is in immediate danger from their partner or relatives it is advisable to call the police, who can be contacted in emergencies on 112. There are currently 7 licensed shelters Kosovo-wide offering protection and support for victims of domestic violence.”*



**UNITED AGAINST  
DOMESTIC VIOLENCE**