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**E DREJTA PËR TË KËRKUAR AZIL: E DREJTA NDËRKOMBËTARE
PËR REFUGJATËT DHE PËRGJEGJËSITË, ME FOKUS NË KOSOVË**

**ПРАВОТО НА БАРАЊЕ АЗИЛ: МЕЃУНАРОДНОТО ПРАВО ЗА
БЕГАЛЦИ И ОДГОВОРНОСТИТЕ, СО ФОКУС НА КОСОВО**

**THE RIGHT TO SEEK ASYLUM: INTERNATIONAL REFUGEE LAW
AND RESPONSIBILITIES, WITH A FOCUS ON KOSOVO**

Abstract

This paper examines the legal and institutional dimensions of the right to seek asylum and the protection of refugees, with a particular focus on the Republic of Kosovo. It analyzes the obligations deriving from international instruments such as the 1951 Geneva Convention Relating to the Status of Refugees, its 1967 Protocol, and additional standards stemming from international and regional human rights law. Given Kosovo's particular legal and political context, the study pays special attention to how these obligations are interpreted and incorporated into national legislation and practice. The research explores how domestic institutions respond to the needs of asylum seekers and refugees, with an emphasis on legal guarantees, access to procedures, and respect for fundamental rights. It also identifies institutional shortcomings, procedural obstacles, and gaps in implementation that may hinder effective protection. By drawing comparisons with best practices in other countries, the study aims to assess the potential for harmonization with European Union asylum standards.

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The findings of this research offer practical recommendations for improving Kosovo's asylum system. These include strengthening institutional capacity, enhancing procedural fairness, and ensuring compliance with international commitments. The paper concludes that a more efficient and rights-based asylum framework would benefit both individuals in need of protection and Kosovo's legal system, particularly in the context of its European integration process.

Keywords: *Asylum application, refugee protection, international rights, domestic rights, Republic of Kosovo, UN Refugee Convention, asylum system.*

1. Introduction

Asylum status is legal and provides protection for individuals who are unable or unwilling to return to their country of origin due to serious threats to their life or freedom, based on the principle of non-refoulement and international human rights standards. Asylum is granted to those who fear persecution in their country due to race, religion, nationality, political beliefs or membership in a particular social group.²

Asylum seekers are those persons who seek protection from another country because they fear persecution or a serious risk in their country of origin, and are still awaiting a decision on their refugee status.³ If there is a negative decision on the asylum application, then the person who has sought asylum must leave the country where he or she has sought asylum and may be deported, as any non-citizen in a situation that is not in accordance with the rules and laws of the respective country may be deported. However, there are some cases where there are exceptions, when a residence permit is granted for humanitarian reasons and other reasons related to this issue.⁴ According to the 1951 Refugee Convention and its 1967 Protocol, the term refugee is defined as a person who is outside his country of origin due to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, and is unable or, owing to such fear, is unwilling to return to it.⁵ International law has defined the status of the refugee, which is well-known, while asylum seekers are those individuals who submit requests for international protection and await a formal decision on their status from the competent authorities where they submit their asylum

² Who is an 'asylum-seeker', <https://www.unhcr.org/about-unhcr/who-we-protect/asylum-seekers>

³ <https://ijrcenter.org/>

⁴ Ibid.

⁵ United Nations High Commissioner for Refugees (UNHCR), *1951 Refugee Convention and Its 1967 Protocol*, accessed May 10, 2025, <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>.

application.⁶ Once granted refugee status or another status such as humanitarian protection, an asylum seeker is called a refugee or a person who has been granted asylum.⁷ It often happens that national authorities, through certain procedures, decide that an individual cannot obtain refugee status or any other form of international protection, then they can return the individual to his/her country of origin. Based on the latest UNHCR reports, worldwide refugee status has been recognized for approximately 11.1 million individuals under its mandate. For reasons of persecution, for national, religious, racial, ideological reasons, etc., millions of people have been forced to abandon and flee their homeland.⁸

Article 2 of Protocol No. 4 to the European Convention on Human Rights guarantees freedom of movement, according to which everyone has the right to leave any country, including his own. This right is essential for the exercise of other rights, such as the right to seek international protection from torture or inhuman or degrading treatment. When a state imposes restrictions on leaving the country, it must also take into account the aforementioned convention and the decisions of the European Court of Human Rights.⁹

2. Methodology of the study

In this research, I will use combined legal and analytical methods, as follows:

1) The normative method of international and regional legal instruments related to the right to seek asylum and refugee protection, including the 1951 Refugee Convention, the 1967 Protocol and EU legal frameworks;

2) The method of examining the internal legal framework of the Republic of Kosovo, comparing its compliance with international standards and how effective it is in its implementation;

3) The comparative legal method, comparing the similarities and discrepancies between the approach of the Republic of Kosovo and other countries in the region and beyond;

4) The empirical and statistical method, using data from UNHCR, the Kosovo Asylum Agency and other institutional or academic sources;

5) Doctrinal method, by analyzing the critical review of scientific literature related to the legal concepts of refugee, asylum seeker and migrant,

⁶ United Nations High Commissioner for Refugees (UNHCR), *Kosovo: New UNHCR Papers on the Protection Needs of Asylum Seekers and Refugees*, accessed May 10, 2025, <https://www.unhcr.org/news/briefing-notes/kosovo-new-unhcr-papers-protection-needs-asylum-seekers-and-refugees>.

⁷ <https://www.unhcr.org/about-unhcr/who-we-protect/asylum-seekers>

⁸ <https://www.refworld.org/policy/legalguidance/unhcr/1997/en/36258>

⁹ <https://www.refworld.org/policy/legalguidance/unhcr/1997/en/36258>

as well as what includes the normative content of the right to seek asylum as a fundamental human right.

These methods aim to provide an integrated legal-analytical framework that assesses both the normative content and the practical effectiveness of the Kosovo asylum and refugee protection system.

3. Research Questions

1. What are the legal rights and what is the normative content of the right to seek asylum under international law?
2. What is the legal distinction between a refugee, an asylum seeker and a migrant?
3. Are there state obligations under the 1951 Refugee Convention and other relevant international instruments regarding the protection of refugees?
4. Has the right to asylum been implemented and developed in the Republic of Kosovo according to its legal and institutional framework?
5. Does the legal framework of Kosovo comply with international refugee law standards and to what extent?
6. What are the main challenges and legal/institutional shortcomings in the asylum system in Kosovo, and are there any proposals for recommendations for its improvement?

4. Hypotheses

- 1) The right to seek asylum constitutes a fundamental human right protected under binding international law.
- 2) The Republic of Kosovo, although not a member of the United Nations and not a signatory to the 1951 Convention, includes in its domestic legislation all the essential principles of international refugee law.
- 3) The right to seek asylum in the Republic of Kosovo and its implementation in practice is hampered by institutional challenges and limited administrative capacities, affecting the effective protection of refugees and asylum seekers.
- 4) It is required that there be improved inter-institutional cooperation and ensuring full compliance with international standards would significantly strengthen the asylum and protection system of the Republic of Kosovo.

5. Literature Review

The global situation regarding refugees, asylum seekers and migrants has increasingly attracted the attention of legal scholars, human rights organizations and international institutions. According to Amnesty International, the

reason why refugees and asylum seekers are forced to leave their countries is because of persecution, violence or human rights violations. In contrast, migrants usually move to improve their living conditions, although their experiences often overlap.¹⁰ One of the critical challenges for displaced populations is access to healthcare. According to a study by Journalist's Resource, it highlights some of the systemic barriers asylum seekers and refugees face in accessing healthcare services in the United States, which often include legal, financial, and language barriers.¹¹

According to the United Nations High Commissioner for Refugees (UNHCR), an asylum seeker is defined as a person who is seeking international protection and is awaiting a formal decision on their refugee status.¹² Among the core principles of refugee protection, as outlined by UNHCR, is the principle of non-refoulement, which prohibits the expulsion of individuals to territories where their life or freedom would be at risk. This principle is considered a cornerstone of international refugee protection.¹³ Among the main instruments that provide the legal basis for refugee protection are the 1951 Refugee Convention and the 1967 Protocol.¹⁴ These are the documents that codify the rights of refugees and the obligations of host states. In this regard, the European Court of Human Rights (ECHR) has interpreted the European Convention on Human Rights to include appropriate protections for asylum seekers, particularly in cases involving inhuman or degrading treatment.¹⁵ Regional and national laws play an important role in the protection of refugees, in addition to UN-level frameworks. Building on this example, the European Union has introduced minimum standards for the treatment of asylum seekers through the Asylum Procedures Directive and the Reception Conditions Directive.¹⁶

¹⁰ Amnesty International. "Refugees, Asylum-Seekers and Migrants." Amnesty International. <https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/>.

¹¹ Journalist's Resource. "How Migrants, Asylum Seekers and Refugees Seek Health Care in the US: A Primer and Research Roundup." Harvard Kennedy School Shorenstein Center, October 18, 2019. <https://journalistsresource.org/home/how-migrants-asylum-seekers-and-refugees-seek-health-care-in-the-us-a-primer-and-research-roundup/>.

¹² UNHCR. "Asylum-Seekers." UNHCR. <https://www.unhcr.org/about-unhcr/who-we-protect/asylum-seekers>.

¹³ UNHCR. "1951 Refugee Convention and Its 1967 Protocol." UNHCR. <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>.

¹⁴ Ibid.

¹⁵ European Court of Human Rights. "Asylum and the ECHR." COURTalks-disCOURs. https://www.echr.coe.int/documents/d/echr/COURTalks_Asyl_Talk_ENG.

¹⁶ European Migration Law Blog. "The EU Pact Instruments on Asylum and Minimum Human Rights Standards." EU Migration Law Blog. <https://eumigrationlawblog.eu/eu-pact-instruments-on-asylum-and-minimum-human-rights-standards/>.

The Republic of Kosovo has adopted its Law on Asylum, which sets out all procedures and protections available to individuals seeking asylum.¹⁷

In this regard, the International Justice Resource Center has criticized international and regional legal bodies for how they address asylum issues and has provided valuable analysis of important cases and developing legal standards.¹⁸ According to UNHCR information on Kosovo, it presents an illustration of the specific protection needs of individuals displaced from or within the region.¹⁹

Academic studies play an important role and contribution to the development of refugee protection. Author Alice Edwards, in a study published in the *Journal of Refugee Studies*, has examined how refugee status determination works in African contexts, drawing attention to both legal innovation and ongoing challenges.²⁰ These diverse sources, when taken together, present a complex legal and humanitarian landscape governing refugees, asylum seekers and migrants. A proper understanding of the differences and protections between them is essential to ensuring that displaced individuals receive the rights and assistance to which they are entitled under international law.

6. What is the difference between refugees, asylum seekers and migrants?

The definitions of refugees, asylum seekers, and migrants refer to individuals who leave their country of origin and cross their borders. These definitions are often confused, and it is important to distinguish between them, as they have different legal meanings.²¹

6.1 Who is a refugee?

The 1951 Refugee Convention (Article 1A) defines the term refugee as a person who has fled his country due to a well-founded fear of persecution on grounds of race, religion, nationality, membership of a particular social

¹⁷ Official Gazette of the Republic of Kosovo. Law on Asylum. No. 8, May 15, 2018. <https://help.crpkosovo.org/English/asylum.html>.

¹⁸ International Justice Resource Center. Homepage. <https://ijrcenter.org/>.

¹⁹ UNHCR. “Kosovo: New UNHCR Papers on the Protection Needs of Asylum Seekers and Refugees.” UNHCR. <https://www.unhcr.org/news/briefing-notes/kosovo-new-unhcr-papers-protection-needs-asylum-seekers-and-refugees>.

²⁰ Edwards, Alice. “Refugee Status Determination in Africa.” *Journal of Refugee Studies* 14, no. 2 (2001): 95–110. <https://academic.oup.com/jrs/article-abstract/14/2/95/1520113>.

²¹ https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/?utm_source=google&utm_medium=cpc&gad_source=1&gclid=CjwKCAiA5Ka9BhB5EiwA1ZVtvEKPMopv2Nw9wfAWMP6HMO5bIMqHJoETSmwlI2hDRwvqwUPNmmL9RoCQs4QAvD_BwE.

group or political opinion.²² The dangers were so great that he or she felt he had no choice but to flee to seek safety outside his or her country, as his or her country was unable or unwilling to protect him or her from the dangers. Every refugee has the right to international protection.²³

6.2 Who is an asylum seeker?

An asylum seeker is someone who has fled his or her country of origin and is seeking protection in another country because of persecution or serious human rights violations, but whose refugee status is not yet legally recognized and who is awaiting a formal decision on asylum.²⁴ Therefore, every person has the right to enter another country to seek asylum and seek protection.²⁵

6.3 Who is a migrant?

International legislation lacks a single, universally accepted definition of the term migrant, but the International Organization for Migration (IOM) defines the term migrant as a person who leaves their place of usual residence, whether within a country or across an international border, temporarily or permanently, for various reasons.²⁶ There are several well-known reasons why immigrants leave their country, such as to work, study, or reunite with family. While others leave due to poverty, violence, natural disasters, or other difficult circumstances. Although many of them do not meet the legal criteria to be considered refugees.²⁷ There is also a risk if migrants return to their country of origin, although migrants do not flee persecution it is important to understand that they are entitled to protection and respect for all their human rights, regardless of their status in the country where they are. Governments are obliged to protect migrants from racist and xenophobic violence, exploitation and forced labour. Migrants should not be detained or forced to return to their country of origin without a legitimate reason.²⁸

²² *The 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol*. United Nations High Commissioner for Refugees. <https://www.unhcr.org/1951-refugee-convention>.

²³ Ibid.

²⁴ UNHCR, **Who is an ‘asylum-seeker’?** <https://www.unhcr.org/about-unhcr/who-we-protect/asylum-seekers>

²⁵ https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/?utm_source=google&utm_medium=cpc&gad_source=1&gclid=CjwKCAiA5Ka9BhB5EiwA1ZVtvEKPMopv2Nw9wfAWMP6HMO5bIMqHJoETSmwlI2hDRwvqWUPNmmL9RoCQs4QAvD_BwE.

²⁶ IOM, World migration report 2020.

https://publications.iom.int/system/files/pdf/wmr_2020.pdf.

²⁷ Ibid.

²⁸ <https://journalistsresource.org/home/how-migrants-asylum-seekers-and-refugees-seek-health-care-in-the-us-a-primer-and-research-roundup/>.

7. Why are there so many migrants, refugees?

Today, the number of refugees is greater than ever before. Some 26 million people have fled their countries due to war, violence, persecution or human rights violations. In 2023, according to UNHCR's Global Trends Report, over 108.4 million people were forcibly displaced worldwide by the end of 2022, according to this report, 35.3 million refugees and 62.5 million people are internally displaced.²⁹ This increase in displacement has occurred since World War II, when 60 million people were left homeless. The current displaced include 4.2 million people seeking asylum - refugee status - and 45.7 million people displaced within their own countries due to violence, instability or natural disasters. World Refugee Day, which is celebrated globally on 20 June, is celebrated to honour the courage and resilience of all those who have been displaced and to raise awareness about their needs and rights.³⁰

In recent history the Syrian conflict represents the most significant refugee crisis, while Venezuela is the one that has shown an economic instability which has similarly resulted in large-scale displacement across the region.³¹ Conflict in South Sudan, Myanmar and the Democratic Republic of Congo has forced millions of people to flee their countries in recent years.³² The largest refugee displacements have come from Afghanistan and Somalia, which have continued for decades and are still in humanitarian need. But there are also several other countries where large numbers of people have been displaced, either within their own country or fleeing violence.³³

8. Legal Framework

The 1951 Geneva Convention and the 1967 Protocol relating to the Status of Refugees are the main international documents guaranteeing the rights of refugees.

The rights of refugees are guaranteed by:

- a) The Universal Declaration of Human Rights;
- b) the Treaty on the Functioning of the European Union;

²⁹ UNHCR, **Global Trends report 2023** <https://www.unhcr.org/global-trends-report-2023>.

³⁰ Amnesty International, "Refugees, Asylum-Seekers and Migrants," last modified May 10, 2025, <https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/>.

³¹ United Nations High Commissioner for Refugees (UNHCR), *Kosovo: New UNHCR Papers on the Protection Needs of Asylum Seekers and Refugees*, accessed May 10, 2025, <https://www.unhcr.org/news/briefing-notes/kosovo-new-unhcr-papers-protection-needs-asylum-seekers-and-refugees>.

³² UNHCR, *Global Trends Report 2023*, <https://www.unhcr.org/global-trends>.

³³ United Nations High Commissioner for Refugees (UNHCR), *Kosovo: New UNHCR Papers on the Protection Needs of Asylum Seekers and Refugees*, accessed May 10, 2025, <https://www.unhcr.org/news/briefing-notes/kosovo-new-unhcr-papers-protection-needs-asylum-seekers-and-refugees>.

c) the Charter of Fundamental Rights of the European Union.³⁴

The European Convention on Human Rights does not specifically define it in any article that specifically guarantees the rights of asylum seekers or refugees. However, Article 3 of the Convention prohibits the return of an individual from border crossings or from any other place within the jurisdiction of a State, thereby placing a person at potential risk of being subjected to torture or inhuman or degrading treatment or punishment, is prohibited by Article 3 of the Convention.³⁵ However, there are cases where extreme cases arise, such as return, extradition, and for all of these, a case can be raised under Article 2 of the ECHR, which guarantees the right to life. In addition to the above-mentioned cases in the Union, the European Asylum System operates in the Common Asylum System, created in Tampere, Finland, as a result of the conflicts in the Balkans in the years 1999-2004. This System is based on a large number of regulations and directives, which are part of the secondary implementation of the Union.³⁶

9. What is the Legal Protection of Asylum Seekers and Refugees under International Legal Acts?

In the twentieth century, the international community began to take action to protect refugees. Their protections refer to the division into categories based on national origin, the territory from which they fled, and the lack of protection in their country of origin.³⁷ Modern refugee law originated after World War II, as a result of the refugee crises that occurred before that war, and is considered part of international human rights legislation. Today, one of the most important human rights is the legal protection of refugee rights, on the basis of which a number of other interdependent fundamental rights arose.³⁸ As common values of a democratic society are human rights, democracy and the rule of law and the protection of the rights of refugees is an added value in it. International legislation for the protection of the rights of refugees is one of the most developed areas of international law. This has come as a result of the acceptance of the refugee phenomenon as an inevitable phenomenon, which occurs for various reasons. The reasons for departure are independent of the will of individuals who leave their country and decide to seek refuge in another country. In this regard, the international legal regulation

³⁴ <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention#:~:text=The%201951%20Refugee%20Convention%20and%20its%201967%20Protocol,the%20international%20standards%20of%20treatment%20for%20their%20protection.>

³⁵ [https://eumigrationlawblog.eu/eu-pact-instruments-on-asylum-and-minimum-human-rights-standards/.](https://eumigrationlawblog.eu/eu-pact-instruments-on-asylum-and-minimum-human-rights-standards/)

³⁶ *ibid*

³⁷ [https://ijrcenter.org/refugee-law/.](https://ijrcenter.org/refugee-law/)

³⁸ *Ibid.*

of the refugee protection process considers it necessary to regulate this social anomaly such as the refugee phenomenon, aiming at its integration into the most important acts of an international character.³⁹

Today there is a consolidated policy for the protection of refugees, as their protection has become the subject of bilateral agreements between countries, drafting a series of international and regional conventions, as well as the Constitution and domestic laws of the country. Society has undergone numerous economic, social and political developments which have led to the transformation and regulation of human rights through various international mechanisms. Thus, universal documents began to be issued in the field of recognition and proclamation of human rights.⁴⁰

The United Nations General Assembly is the institution that has an essential contribution to the drafting of universal and regional documents for the protection of human rights. In the following, we will focus on those acts that are most directly related to refugee law, as the field that regulates the forced movements of individuals from one country to another or within the country. Due to its indisputable importance, the protection of the rights of refugees enjoys special protection from national and international mechanisms and instruments.⁴¹ The most important international legal acts for the protection of refugees are:

- a) Universal Declaration of Human Rights.
- b) International Covenant on Civil and Political Rights, 1966.⁴²
- c) United Nations Convention on the Rights of the Child, 1989.
- d) 1951 Convention relating to the Status of Refugees.
- e) 1967 Protocol to the Convention relating to the Status of Refugees.

10. Kosovo's positions based on Laws

Kosovo's position in response if we look at it within the framework of the international legal framework for asylum is a very important issue that has had a significant development after the declaration of independence of Kosovo on 17 February, 2008. and refugees who come to Kosovo so that the latter are supported by international and national laws.⁴³ International agreements and conventions: Although not a party to the 1951 Refugee Convention, the Republic of Kosovo has incorporated key international refugee protection

³⁹ <https://ijrcenter.org/refugee-law/>.

⁴⁰ Division on Migration and Refugees, <https://www.coe.int/en/web/migration-and-refugees/-/world-refugee-day-the-world-needs-a-system-built-around-the-needs-of-refugees->.

⁴¹ Ibid.

⁴² International Covenant on Civil and Political Rights, 16 December 1966, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

⁴³ <https://www.icj-cij.org/case/141>.

principles into its domestic legal system and adheres to relevant human rights treaties.⁴⁴ The 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol clearly define the conditions for the protection of refugees, as well as their rights and freedoms.⁴⁵

The International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination, which are among the crucial protections of individuals seeking asylum.⁴⁶ The EU Agreement, this is as part of a process of integration into the European Union, where in this context Kosovo has signed agreements and has approved the relevant law on the protection and rights of asylum seekers. The Law on Asylum in Kosovo: In alignment with international standards, Kosovo has adopted the Law on Asylum (Law No. 03/L-2019), which outlines procedures for granting refugee status and safeguards against refoulement.⁴⁷ This law contains the procedures for applying for, and granting refugee status, as well as protection from return to countries where they may be at risk.⁴⁸

10.1 What is Kosovo's role in the international asylum network

Despite its relatively recent statehood, Kosovo collaborates actively with international actors, including UNHCR, to improve its asylum procedures and refugee protection mechanisms.⁴⁹ The Republic of Kosovo is part of several important international mechanisms for the exchange of information and cooperation with various countries for the management of the international movement of people.⁵⁰

10.2 Legal Protection of Asylum Seekers and Refugees in Kosovo

Asylum Procedure: Asylum seekers in Kosovo can apply for asylum at the Kosovo Asylum Center. Asylum seekers have the right to protection if

⁴⁴ United Nations High Commissioner for Refugees (UNHCR), *1951 Refugee Convention and Its 1967 Protocol*, accessed May 10, 2025, <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>.

⁴⁵ <https://www.refworld.org/policy/countrypos/unhcr/1999/en/92927>.

⁴⁶ International Covenant on Civil and Political Rights, 16 December 1966, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

⁴⁷ Republic of Kosovo, *LAW No. 06/L-026 on Asylum*, Official Gazette of the Republic of Kosovo, May 15, 2018, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18330>.

⁴⁸ Ibid.

⁴⁹ United Nations High Commissioner for Refugees (UNHCR), *Kosovo: New UNHCR Papers on the Protection Needs of Asylum Seekers and Refugees*, accessed May 10, 2025, <https://www.unhcr.org/news/briefing-notes/kosovo-new-unhcr-papers-protection-needs-asylum-seekers-and-refugees>.

⁵⁰ <https://www.unhcr.org/news/briefing-notes/kosovo-new-unhcr-papers-protection-needs-asylum-seekers-and-refugees>.

they risk being persecuted because of their race, religion, nationality, social affiliation or political opinion.⁵¹

Refugee Status: Since they are not wanted for asylum, if applicants meet the conditions, they are granted refugee status, which guarantees them protection and rights such as: protection from deportation, protection from persecution, and the opportunity to stay in Kosovo.

Social and Legal Support: Under the law in Kosovo, individuals seeking asylum are entitled to basic social assistance, including housing, healthcare, legal aid, and education, as provided for in national legislation and supported by humanitarian organizations. And they are allowed access to legal services to assist in the asylum process.⁵²

11. Criminal Offences and Possible Violations

If it is found that there are abuses or violations of the law regarding relations with asylum seekers and refugees in Kosovo, they could all be:

11.1 Treatment of Asylum Seekers and Refugees:

It is considered a criminal offense under the Criminal Code of Kosovo and is subject to criminal prosecution if any act of mistreatment, including physical or psychological abuse of asylum seekers or refugees, occurs.⁵³ Article 142 of the Criminal Code of Kosovo specifically prohibits the mistreatment of those under protection and if this prohibition is violated, then criminal prosecution may be possible.⁵⁴

11.2 Corruption and Abuse of Duty:

Any public official who manipulates asylum procedures or engages in corrupt practices, including the illegal granting of refugee status, is considered criminally liable under provisions addressing abuse of office and corruption

⁵¹ Law No. 03/L-057 on Asylum: This law is the basic document for asylum procedures in Kosovo. It sets out the rules for applying for asylum, examining applications and protecting persons seeking international protection. You can find this law on the website of the Assembly of Kosovo: Law on Asylum.

⁵² Ibid.

⁵³ Criminal Code of the Republic of Kosovo, *Code No. 06/L-074*, Official Gazette of the Republic of Kosovo, 2019. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>.

⁵⁴ Law No. 04/L-213 on Refugees: This law describes the procedures and rights of refugees and is another important source for the legal protection of refugees in Kosovo. It can also be found on the website of the Assembly of Kosovo.

in the Kosovo legal system.⁵⁵ These actions are sanctioned in the Criminal Code of Kosovo.⁵⁶

Any persecution and discrimination of asylum seekers and refugees is prohibited and any discriminatory act or obstruction of the rights of asylum seekers, based on race, religion, nationality or political opinion, is prohibited and prosecuted under Kosovo's anti-discrimination laws and international human rights obligations.⁵⁷

11.3 Obstruction of Asylum Seekers from Applying for Asylum:

Any act or person that hinders an asylum seeker's application for asylum may be considered unlawful and potentially constitutes a violation of legal procedures, leading to criminal prosecution of the persons involved.⁵⁸

11.4 Consequences for Violations of the Law

In the Republic of Kosovo, legal violations committed against asylum seekers and refugees can result in criminal prosecution and negatively impact the state's international reputation regarding compliance with human rights.⁵⁹ These actions constitute a criminal offense and can be punishable by imprisonment and can negatively affect the international reputation of the state of Kosovo.⁶⁰

11.5 Challenges and perspectives: The number of asylum applications in Kosovo has increased, but as a state it also faces its own challenges in managing asylum applications. These applications are mostly from its own citizens trying to reach EU countries, posing serious challenges for national authorities in managing migration flows and administrative capacities.⁶¹

⁵⁵ Republic of Kosovo, *LAW No. 06/L-026 on Asylum*, Official Gazette of the Republic of Kosovo, May 15, 2018, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18330>.

⁵⁶ Criminal Code of Kosovo: This document includes provisions that may apply to criminal offenses related to discrimination, mistreatment and abuse of asylum seekers and refugees. You can find this document on the website of the Assembly of Kosovo: Criminal Code of Kosovo.

⁵⁷ Republic of Kosovo, *LAW No. 05/L-021 on the Protection from Discrimination*, Official Gazette of the Republic of Kosovo, 2015. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10923>.

⁵⁸ Civil Rights Program Kosovo (CRP/K), "Asylum in Kosovo," accessed May 10, 2025, <https://help.crpkosovo.org/English/asylum.html>.

⁵⁹ United Nations High Commissioner for Refugees (UNHCR), *Kosovo: New UNHCR Papers on the Protection Needs of Asylum Seekers and Refugees*, accessed May 10, 2025, <https://www.unhcr.org/news/briefing-notes/kosovo-new-unhcr-papers-protection-needs-asylum-seekers-and-refugees>.

⁶⁰ *ibid*

⁶¹ United Nations High Commissioner for Refugees (UNHCR), *Kosovo: New UNHCR Papers on the Protection Needs of Asylum Seekers and Refugees*, accessed May 10, 2025,

11.6 Integration of refugees: Due to its post-conflict circumstances and limited socio-economic infrastructure, the number of refugees remains a significant challenge for Kosovo as a newly established and developing state, especially.⁶² Kosovo is making maximum efforts and is trying to develop a sustainable system for the protection of asylum seekers, but full integration with international organizations remains a challenge, which it considers a key challenge.⁶³

LAW No. 06/L-026 on Asylum

Article 2, Scope

The purpose of this law is to apply to all foreign citizens and stateless persons who have expressed their desire to apply for international protection in the Republic of Kosovo, including the border in territorial waters and transit zones. This law applies for as long as they are allowed to stay on the territory of Kosovo as applicants for international protection, and also to family members, if they are included in the application for international protection under this law.⁶⁴

The Law on Asylum of the Republic of Kosovo aims to determine the conditions and procedures for asylum, as well as for international protection, with a main focus on guaranteeing their regularity. This law is harmonized and equivalent to international standards and directives from the European Union (EU), and according to this law the main objective is to protect the rights of asylum seekers due to fear for their life or freedom in certain countries from which they come.⁶⁵ The Law on Asylum of the Republic of Kosovo stipulates that persons who are at risk due to ethnicity, political opinions, religious views and social groups may seek asylum. This law aims to protect everyone and the laws that process are in line with international standards for refugee protection for those seeking protection.⁶⁶

<https://www.unhcr.org/news/briefing-notes/kosovo-new-unhcr-papers-protection-needs-asylum-seekers-and-refugees>.

⁶² Civil Rights Program Kosovo (CRP/K), "Asylum in Kosovo," accessed May 10, 2025, <https://help.crpkosovo.org/English/asylum.html>.

⁶³ <https://academic.oup.com/jrs/article-abstract/14/2/95/1520113?redirectedFrom=fulltext>

⁶⁴ OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO / No. 8 / 15 MAY 2018, PRISTINA.

⁶⁵ <https://help.crpkosovo.org/English/asylum.html>.

⁶⁶ <https://help.crpkosovo.org/English/asylum.html>.

12. Kosovo's challenges regarding asylum seeker

The country of Kosovo is a country that faces very big challenges in accepting asylum seekers.

Kosovo faces a severe lack of resources and capacities, including: a limited system to grant asylum to those who seek it, housing, legal support, etc. As for financial resources, they are extremely limited to manage the requests coming from asylum seekers. Above we talked about housing, as is known Kosovo has a small number of centers for asylum and shelter compared to the number of those seeking asylum/housing, the great pressure to provide adequate housing, in most cases this leads to difficult conditions for those seeking protection. Another very important challenge to mention is the management of the flow of asylum seekers, as it is well known that Due to its geographic location, Kosovo frequently serves as a transit route for migrants en route to the European Union, resulting in increased pressure on national institutions and border control mechanisms.⁶⁷ To manage this flow, a great coordination is required between the government of Kosovo and the international organizations that organize in Kosovo. Regarding policies and law on asylum, the Republic of Kosovo needs improvements in its law on asylum, as well as strengthening capacities so that all requests are treated with priority. Regarding the knowledge and attitudes towards asylum seekers. There is a general lack of awareness among both institutional actors and segments of the population regarding asylum procedures and the specific needs of applicants, which contributes to stigma and social exclusion.⁶⁸ A very important challenge that should be mentioned here is the confrontation with stigma and discrimination, especially those coming from various conflict areas, for this the Kosovo authorities have taken adequate measures so that every asylum seeker in Kosovo is treated with dignity.

Kosovo continues to develop its asylum system and seeks to strengthen cooperation with international partners such as UNHCR, the European Union, and non-governmental organizations to ensure a comprehensive and sustainable approach to asylum governance.⁶⁹ Kosovo must create an opportunity for asylum seekers so that the latter can contribute to society and integrate through: work, social support, education, etc. The integration of asylum seekers is a challenge in itself, as this requires a structured strategy with

⁶⁷ Amnesty International, "Refugees, Asylum-Seekers and Migrants," last modified May 10, 2025, <https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/>.

⁶⁸ Journalist's Resource, "How Migrants, Asylum Seekers and Refugees Seek Health Care in the US: A Primer and Research Roundup," Harvard Kennedy School Shorenstein Center, October 18, 2019, <https://journalistsresource.org/home/how-migrants-asylum-seekers-and-refugees-seek-health-care-in-the-us-a-primer-and-research-roundup/>.

⁶⁹ International Justice Resource Center, "Refugee Law," accessed May 10, 2025, <https://ijrcenter.org/refugee-law/>.

sufficient resources. Below we will talk about the procedures for receiving asylum seekers and the ass.

13. Asylum Application: Procedures and Practices

The responsibility of the Kosovo state toward asylum seekers commences the moment an individual submits an asylum request, which can be done at a border police station, the Department for Citizenship, Asylum and Migration (DCAM), or other designated authorities.⁷⁰

(DCAM) and the police are obliged to receive the application, where the asylum seeker has filled in his personal data, then their photograph gets taken, fingerprints, documents that the asylum seeker may have with him/her. Once registered, asylum seekers are transferred to the Asylum Center located in Magure, near Pristina, where they are provided with temporary housing and essential services.⁷¹ Asylum seekers housed in the center have the right to temporary residence, access to healthcare, food, legal assistance, and educational services for their children, in accordance with Kosovo's legal framework and international standards.⁷²

The responsibility for conducting official interviews with asylum applicants lies with the Department for Citizenship, Asylum and Migration (DSHMA), under the Ministry of Internal Affairs. However, institutional reports suggest that delays in scheduling and resolving interviews often hinder the timely determination of refugee status.⁷³ A comparative study with North Macedonia and Albania highlights simpler procedures (European Commission, 2022), suggesting that Kosovo could benefit from adopting similar approaches.⁷⁴ The asylum process begins from the moment the asylum seeker submits the asylum application, during which time he/she has the right to free legal advice from the person who will represent him/her. Legal representation is provided by the Civil Rights Program Kosovo (CRP/K), a UNHCR-supported NGO. A designated lawyer and interpreter assist the applicant throughout the procedure, including the official interview conducted by DCAM.⁷⁵

⁷⁰ Republic of Kosovo, *LAW No. 06/L-026 on Asylum*, Official Gazette of the Republic of Kosovo, May 15, 2018. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18330>.

⁷¹ Civil Rights Program Kosovo (CRP/K), "Asylum in Kosovo," accessed May 10, 2025. <https://help.crpkosovo.org/English/asylum.html>.

⁷² Interview Bujar Prebreza, Protection Associate UNHCR mission in Kosovo

⁷³ European Commission, *Kosovo 2022 Report*, SWD(2022), <https://enlargement.ec.europa.eu/system/files/2022-10/Kosovo%20Report%202022.pdf>.

⁷⁴ European Commission, *Kosovo 2022 Report*, <https://enlargement.ec.europa.eu/system/files/2022-10/Kosovo%20Report%202022.pdf>.

⁷⁵ United Nations High Commissioner for Refugees (UNHCR), *Kosovo: New UNHCR Papers on the Protection Needs of Asylum Seekers and Refugees*, accessed May 10, 2025.

The lawyer of this organization will be selected to represent the asylum seeker, where upon arrival at the center the asylum seeker will first be interviewed by the CRP/K representative and their interpreter who is engaged based on the languages that the asylum seeker speaks. After the interviews conducted by them, the asylum seeker is informed about their rights and their stay in the center where they are entitled to food, health services from the Jesuit Refugee Service (JRS), psychological treatment provided by the Kosovo Rehabilitation Center for Torture Victims (KRCT), and education for their children, but also their representatives from CRP/K provides them with guidance and preparation for their crucial interview with DCAM, which will determine their refugee status.⁷⁶

The asylum procedure can also be suspended if: you withdraw your application, if you leave Kosovo, but also if we do not receive information about the asylum seeker for 3 days. In the event of a negative decision by DCAM, the applicant has the right to appeal to the competent court. During the appeal process, the individual may remain in Kosovo until a final decision is rendered.⁷⁷

Conclusion

This study has demonstrated that asylum and refugee protection are multifaceted legal and humanitarian issues, requiring robust legal frameworks and institutional mechanisms to ensure effective protection for individuals fleeing persecution and conflict.⁷⁸ In conclusion, it can be said that the issue of asylum is a very important issue that helps people who for different reasons leave their country of origin. Seeing that people leave their countries for shelter in another country, in this case we are talking about Kosovo, Kosovo's institutions must strengthen their capacity to receive and support asylum seekers, ensuring that the legal infrastructure aligns with international standards to facilitate integration and safeguard human dignity.⁷⁹

<https://www.unhcr.org/news/briefing-notes/kosovo-new-unhcr-papers-protection-needs-asylum-seekers-and-refugees>.

⁷⁶ Interview Memli Ymeri CRP/K Director, mission in Kosovo

⁷⁷ European Court of Human Rights, *Asylum and the ECHR*, COURTtalks-disCOURs, accessed May 10, 2025. https://www.echr.coe.int/documents/d/echr/COURTalks_Asyl_Talk_ENG.

⁷⁸ United Nations High Commissioner for Refugees (UNHCR), *1951 Refugee Convention and Its 1967 Protocol*, accessed May 10, 2025. <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>.

⁷⁹ Republic of Kosovo, *LAW No. 06/L-026 on Asylum*, Official Gazette of the Republic of Kosovo, May 15, 2018. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18330>.

Recommendations:

a) Designating trained officials responsible for gathering and assessing information about countries of origin is essential for accurate asylum evaluations and fair decision-making.⁸⁰

b) Speed up the asylum review process.

c) Promote the social integration of asylum seekers through programs that deal with linguistic and cultural orientation, vocational training, and inclusion in community activities.⁸¹

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⁸⁰ United Nations High Commissioner for Refugees (UNHCR), *Kosovo: New UNHCR Papers on the Protection Needs of Asylum Seekers and Refugees*, accessed May 10, 2025. <https://www.unhcr.org/news/briefing-notes/kosovo-new-unhcr-papers-protection-needs-asylum-seekers-and-refugees>.

⁸¹ Amnesty International, "Refugees, Asylum-Seekers and Migrants," last modified May 10, 2025. <https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/>.

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