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Environmental Protection as a Human Right in Post-War Kosovo and Its Path to EU Compliance³

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Abstract

In post-war countries like Kosovo, numerous social and economic challenges often overshadow environmental protection. However, the European Union (EU) integration makes environmental protection a pressing obligation. International and European standards in this field, closely linked with the protection of human rights, such as the right to a clean and healthy environment, pose challenges even for developed nations. Meeting these standards requires legal, financial, and infrastructural reforms. For Kosovo, this is key to both a healthier society and progress toward EU membership. This article examines the link between international and European environmental protection standards and human rights, focusing on how Kosovo's environmental legislation aligns with EU law and whether it recognizes environmental protection as a human right. The analysis of scholarly literature, relevant legislation and judicial practice proves that Kosovo's legal system acknowledges environmental protection as a human right – enforceable even through criminal law, while implementation remains limited, inconsistent, and lacking strict enforcement.

Keywords: environment protection, human right, Kosovo legislation, international and European standards.

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Ochrona środowiska jako prawo człowieka w powojennym Kosowie i jego droga do zgodności z UE⁴

Streszczenie

W krajach powojennych, takich jak Kosowo, liczne wyzwania społeczne i gospodarcze często przyćmiewają kwestie ochrony środowiska. Integracja z Unią Europejską (UE) sprawia jednak, że ochrona środowiska staje się pilnym obowiązkiem. Międzynarodowe i europejskie standardy w tej dziedzinie, ściśle powiązane z ochroną praw człowieka – takich jak prawo do czystego i zdrowego środowiska – stanowią wyzwanie nawet dla państw rozwiniętych. Spełnienie tych standardów wymaga reform prawnych, finansowych i infrastrukturalnych. Dla Kosowa jest to kluczowe zarówno dla zdrowszego społeczeństwa, jak i dla postępu w kierunku członkostwa w UE.

Autorzy analizują powiązania między międzynarodowymi i europejskimi standardami ochrony środowiska a prawami człowieka, koncentrując się na tym, w jakim stopniu ustawodawstwo Kosowa jest zgodne z prawem UE i czy uznaje ochronę środowiska za prawo człowieka. Analiza literatury naukowej, odpowiednich aktów prawnych oraz praktyki orzeczniczej dowodzi, że system prawny Kosowa uznaje ochronę środowiska za prawo człowieka – egzekwowalne nawet na drodze prawa karnego – podczas gdy jego wdrażanie pozostaje ograniczone, niespójne i niewystarczająco egzekwowane.

Słowa kluczowe: ochrona środowiska, prawa człowieka, ustawodawstwo Kosowa, międzynarodowe i europejskie standardy.

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Introduction

European environmental and human rights standards pose challenges for all nations, requiring sustained legal, financial, and infrastructural commitment. Their enforcement protects fundamental rights, like the right to a healthy environment, benefiting public health. As a state pursues EU membership, it must integrate and implement these standards effectively. Onita rightly emphasizes that environmental damage in all its forms poses a risk to societies.⁵ Therefore, Kosovo institutions must work towards meeting the environmental requirements set by European mechanisms, particularly those arising from the European integration process, a process that has already been ongoing for more than twenty years. The European integration process is known for its complexity, particularly given the continuous and rapid evolution of EU environmental legislation. This article aims to provide a general analysis of Kosovo's environmental legislation in the context of EU legal standards. It will examine whether environmental protection is recognized as a human right under Kosovo's legislation and whether the Criminal Code sanctions environmental violations, particularly in relation to the risks posed to human rights by environmental pollution.

Research methodology

This research employs a mixed-methods approach, combining analytical, descriptive, comparative, and quantitative methods. The analytical method is used to examine the extensive literature on environmental protection and human rights at both the Kosovo and EU levels. The descriptive method provides an overview of the historical development of environmental legislation in Kosovo. The comparative legal method compares Kosovo's legislation with that of the EU, with a targeted interpretation of the Stabilization and Association Agreement, as well as relevant national constitutional and criminal provisions. In addition, a quantitative approach is used to analyze available statistical data on criminal charges related to environmental protection under Kosovo's criminal code, as well as to review significant

⁵ D. Onita, *Environmental Protection, Security and Armed Conflicts. A Sustainable Development Perspective*, Edward Elgar, 2013.

and frequently debated court decisions from the Constitutional Court, Supreme Court, Court of Appeals, and Basic Courts.

Environmental Protection as a Human Rights in EU legislation

Defining 'Environmental Protection' as a Fundamental Human Right

The recognition of environmental protection as a fundamental human right has been the subject of extensive scholarly debate and analysis. Over the years, academic literature has increasingly emphasized the intrinsic connection between environmental well-being and the realization of basic human rights, such as the right to life, health, and dignity. Scholars argue that a healthy environment is essential for the full enjoyment of these rights, prompting the gradual incorporation of environmental protection into human rights frameworks. Lewis directly links environmental protection to the safeguarding of essential human rights.⁶ He argues that environmental protection serves a dual role: on one hand, it is a prerequisite for the realization of human rights, and on the other, it constitutes a right in itself, giving rise to the human right to a healthy environment.⁷ Similarly, Atapattu highlights the distinction between procedural and substantive rights within international human rights law, such as the right to life, health, and an adequate standard of living.⁸ He contends that while procedural human rights are increasingly applied to environmental issues, this does not imply that international legal instruments explicitly establish a right to a clean environment. Instead, environmental rights often refer to procedural rights found in international human rights instruments that have also been integrated into environmental legal frameworks. These include the right to information, participation in decision-making processes, and other due process rights, which are increasingly invoked in environmental matters.⁹

While Thorne¹⁰ views human life as inseparable from the environment and as a right not to be exposed to human-made environmental pollutants that harm

⁶ B. Lewis, *Environmental Rights or a Right to the Environment: Exploring the Nexus Between Human Rights and Environmental Protection*, "Macquarie Journal of International and Comparative Environmental Law" 2012, 8(1), pp. 36–47.

⁷ *Ibidem*, p. 37.

⁸ S. Atapattu, *The Right to a Healthy Life or the Right to Die Polluted? The Emergence of a Human Right to a Healthy Environment Under International Law*, "Tulane Environmental Law Journal" 2002, 16, pp. 65–126.

⁹ *Ibidem*, p. 72.

¹⁰ M. Thorne, *Establishing Environment as a Human Right*, "Denver Journal of International Law & Policy" 1991, 19(2), pp. 301–342.

health, not to be subjected to influences that shorten life, and not to be subjected to excessive noise. For Pathak,¹¹ environmental protection and human rights are as interdependent, interconnected, and mutually responsible, as both aim for human well-being.

All these researchers see a strong connection between environmental protection and human rights; however, the precise definition of this relationship remains elusive.¹²

As a result, environmental protection has emerged as a central topic in global discussions. International community made significant contributions to this field, especially international organizations established after World War II,¹³ and Non-Governmental Organizations through their advocacy efforts.¹⁴ All of them are actively engaged in addressing environmental pollution through collaboration with their member states, considering that environmental challenges cannot be effectively addressed by a single state. For over fifty years, international actors have recognized the importance of environmental protection for human health and have affirmed the interconnectedness of environmental protection and the safeguarding of human rights.¹⁵ Such recognition led to the adoption of legislation that acknowledge the close link between human rights and environmental protection, at EU and national level.

EU legislation on environment protection and human rights

The EU did not include any reference to the Treaty of the European Coal and Steel Community in relation to human rights,¹⁶ for which approach EU has been criticized.¹⁷ The EU was not a party to the European Convention on Human Rights and Fundamental Freedoms (ECHR) despite previous attempts to recognize it

¹¹ P. Pathak, *Human Rights Approach to Environmental Protection*. "International Journal of Sustainable Development" 2014, 7(01), pp. 17–24.

¹² B. Murati, *Human Rights and the Environment*, "Reform" 2015, 1, pp. 77–83; A. Boyle, *Human Rights and the Environment: Where Next?* "EJIL" 2021, 23(3), pp. 613–642; T. Acevedo, *The Intersection of Human Rights and Environmental Protection in the European Court of Human Rights*, "N.Y.U. Environmental Law Journal" 1999, 8, p. 437.

¹³ W. Kaiser, J.H. Meyer, *International Organizations and Environmental Protection: Conservation and Globalization in the Twentieth Century*, Berghahn Books 2019.

¹⁴ M.D. Varela, *The Role of Non-Governmental Organizations in International Environmental Law*, University Center of Brasilia 2013; A.D. Tarlock, *The Role of Non-Governmental Organizations in the Development of International Environmental Law*, "Chicago-Kent Law Review" 1992, 68(61), pp. 61–76. Available from: <https://scholarship.kentlaw.iit.edu/cklawreview/vol68/iss1/8> (accessed: 14.01.2025).

¹⁵ The Framework Principals report (HRC/37/59), UN 2018. Available from: <https://undocs.org/en/A/HRC/37/59> (accessed: 24.02.2025).

¹⁶ P. Craig, P.G. de Búrca, *EU Law: Text, Cases, and Materials*, 5th ed., Oxford 2013, p. 479.

¹⁷ *Ibidem*, p. 479.

through treaties, which ultimately failed.¹⁸ However, the legislation on human rights within the EU has evolved over time.

The EU institutions initially adopted the EU Charter of Fundamental Rights in 2000, which was subsequently integrated into the EU's foundational treaties through the Treaty of Lisbon.¹⁹ Article 6 of Treaty on European Union²⁰ states that "the Union recognizes the rights, freedoms, and principles set out in the Charter of Fundamental Rights of the EU."

The EU shares competencies with its Member States in the field of environmental protection, with the exception of the 'conservation of marine biological resources under the common fisheries policy,' for which the EU holds exclusive competence. The EU legislation on water, nature, forests and air constitutes a significant portion of the EU's environmental legal framework, which includes around 200 legal acts. However, this article focuses on key regulations in water, air, forests, and environmental crime.

EU legislation on water, forests and water

Among most significant legal acts of the EU institutions on water sector are the Water Directive,²¹ the Floods Directive,²² the Drinking Water Directive,²³ the Bathing Water Directive,²⁴ the Marine Strategy Framework Directive.²⁵ The Water Directive applies a comprehensive approach to water management and aims primarily to prevent the deterioration of the status of water resources.²⁶

Regarding the forestry sector, the EU operates through its legislation and policies for forest, such as the EU Forest Strategy for 2030 with following objectives:

- ❑ improve the quality and quantity of forests in the EU;
- ❑ strengthen their protection, restoration, and resilience.²⁷

¹⁸ J.P. Jaque, *The accession of the European Union to the European Convention on Human Rights and Fundamental Freedoms*, "Common Market Law Review" 2011, 48(4), pp. 995–1023; C. Craig, G. De Burca, *op. cit.*, p. 362.

¹⁹ S. Douglas-Scott, *The European Union and Human Rights after the Treaty of Lisbon*, "Human Rights Law Review" 2011, 11(4), pp. 645–682.

²⁰ *Ibidem*.

²¹ Directive 2000/60/EC – Water Framework, EUR-Lex OJL327, 22.12.2000, pp. 1–73.

²² Directive 2007/60/EC – Assessment and management of flood risks, EUR-Lex OJL288, 6.11.2007, pp. 27–34.

²³ Directive (EU) 2020/2184 – Quality of water intended for human consumption (recast), EUR-Lex, OJL435, 23.12.2020, pp. 1–62.

²⁴ Directive 2006/7/EC – Management of bathing water quality, EUR-Lex OJL64, 4.3.2006, pp. 37–51.

²⁵ Directive 2008/56/EC – Marine Strategy Framework Directive, EUR-Lex OJL164, 25.6.2008, pp. 19–40.

²⁶ A.P. Chave, *The EU Water Framework Directive*, IWA, 2001.

²⁷ *EU forest strategy for 2030*, COM/2021/572. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021DC0572> (accessed: 4.03.2025).

It relies on legal acts from various sectors, including biodiversity, climate change, renewable energy, the bioeconomy, and rural development.²⁸ These sources indicate that the Strategy requires revisions to incorporate pan-European indicators and a framework for sustainable forest management, which are currently missing.²⁹ To achieve its first objective, the European Commission (EC) has proposed a Regulation on deforestation-free products to ensure that products consumed by EU citizens do not contribute to deforestation or forest degradation globally.³⁰ This Regulation would repeal the previous one, which is important for timber in the EU internal market, including imports from third countries.³¹ EC adopted also the Regulation on related to monitoring organizations.³² Regulation on due diligence system,³³ and Regulation³⁴ on reporting in environmental legislation. According to Myers *et al.*,³⁵ the EU's mechanisms for enforcing forestry legislation are crucial for enabling third countries to determine what is legal to trade in the EU.

EU has taken also steps to improve air quality by adopting directives,³⁶ such as the Air Quality Directive³⁷ which has been considered as having some of the strictest international air quality standards³⁸, and Directive on Arsenic, Cadmium, Mercury, Nickel, and Polycyclic Aromatic Hydrocarbons in Ambient Air³⁹ which

²⁸ M. Lier, M. Köhl, T.K. Korhonen, S. Linser, K. Prins, A. Talarczyk, *The New EU Forest Strategy for 2030: A New Understanding of Sustainable Forest Management?* "Forests" 2012, 13(2), p. 245.

²⁹ *Ibidem*; S. Linser, B. Wolfslehner, *National Implementation of the Forest Europe Indicators for Sustainable Forest Management*, "Forest" 2022, 13(2), p. 191.

³⁰ EC, 2023. Environment: Deforestation-free products. Available from: https://environment.ec.europa.eu/topics/forests/deforestation/regulation-deforestation-free-products_en (accessed: 26.01.2025).

³¹ R. Dudík, L. Šišák, *Placing Timber and Timber Products on the Market in the Czech Republic and Related Economic Impacts*. IUFRO Symposium, Hungary 2014, pp. 35–42.

³² Regulation (EU) No 363/2012 – EU Timber Regulation, EUR-Lex OJL115, 27.4.2012, pp. 12–16.

³³ Regulation (EU) No 607/2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU) No 995/2010 on the obligations of operators who place timber and timber products on the market Text with EEA relevance, EUR-Lex OJL177, 7.7.2012, pp. 16–18.

³⁴ Regulation (EU) 2019//1010 – Alignment of reporting obligations in the field of legislation related to the environment, EUR-Lex OJL170, 25.6.2019, pp. 115–127.

³⁵ R. Myers, L.R. Rutt, C. McDermott, A. Maryudi, E. Acheampong, M. Camargo, H. Căm, *Imposing legality: hegemony and resistance under the EU Forest Law Enforcement, Governance, and Trade (FLEGT) initiative*, "Journal of Political Ecology" 2020, 27(1), pp. 125–149.

³⁶ G. Marco, X. Bo, *Air Quality Legislation and Standards in the European Union: Background, Status and Public Participation*, "Advances in Climate Change Research" 2013, 4(1), pp. 50–59.

³⁷ Directive (EU) 2008/50/EC – Ambient air quality and cleaner air for Europe. EUR-Lex OJL152, 11.6.2008, pp. 1–44.

³⁸ F. De Leeuw, P. Ruysenaars, *Evaluation of current limit and target values as set in the EU Air Quality Directive*, "ETC/ACM" 2011, 3.

³⁹ Directive 2004/107/EC – Arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air. EUR-Lex OJL23, 26.1.2005, pp. 3–16.

aims to ensure ambient air quality where these substances are present;⁴⁰ iii) Directive on the Reduction of National Emissions⁴¹ applies to emissions from all sources within Member States' territories, exclusive economic zones, and pollution control areas.

Environmental Protection as a Human Right: Aligning Kosovo's Legislation with EU Standards

The right to environmental protection and human rights has significantly evolved at both the international and EU levels. Unlike the UN, the EU recognizes environmental protection as a human right in its Charter of Fundamental Rights. This evolution in environmental law is mirrored at the national level. Aligning national environmental and human rights legislation with international and EU standards is essential for countries aspiring to join the EU.

Following the entry into force of the Stabilization and Association Agreement (SAA) between the EU and the Republic of Kosovo (Kosovo), the country became contractually obligated to align its legislation with EU standards in areas covered by the agreement, including environmental legislation and human rights protection.

Kosovo has been working on aligning its environmental legislation with EU laws even before the SAA took effect, focusing on areas such as strategic environmental assessment, air quality, waste management, and climate change. These EU legal acts must be transposed into Kosovo's legal framework as part of the alignment process.⁴² This alignment is crucial for European integration but, as described below, remains a complex task, especially given the rapid development of environmental legislation.

Kosovo Constitution and environment protection as human right

Article 52 of the Kosovo Constitution states that "Nature and biodiversity, the environment [...] are the responsibility of everyone⁴³". The term "everyone" obliges all legal entities and individuals with citizenship of Kosovo to be environmentally

⁴⁰ R. Duminica, *A Brief Analysis of the European Union and International Legislative Framework of Air Quality Law*, "University Law Study" 2016, pp. 164-169.

⁴¹ Directive (EU) 2016/2284-Reduction of national emissions of certain atmospheric pollutants, EUR-Lex OJL344, 17.12.2016, pp. 1-31.

⁴² R.M. Pereira, *The Competence to Harmonise Environmental Criminal Law in the European Union*, Brill Nijhoff, 2015. Available from: pp. 172-218. Available from: <https://brill.com/display/title/19665> (accessed: 5.03.2025).

⁴³ Constitution of the Republic of Kosovo. Available from: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702> (accessed: 5.02.2025).

friendly and to treat environmental protection as a duty. Paragraph 2 of the same article states that “everyone must be given the opportunity to be heard by public institutions and to have their opinions considered on matters affecting the environment in which they live.”⁴⁴ Everyone has the right to be consulted on environmental impacts during decision-making. State and local institutions must consider these impacts, enforce protective measures, and uphold human rights standards outlined in international conventions.⁴⁵

Although not a formal signatory, Kosovo has voluntarily committed to human rights conventions. Aligning national laws with these standards remains challenging, but fundamental rights are embedded in its legal framework. The Constitution of Kosovo recognizes the environment as a fundamental value within its constitutional framework, establishing obligations for all citizens and particularly for governmental institutions to promote the conservation of nature, biodiversity, and the overall living environment.⁴⁶ Accordingly, Kosovo enacted the Law on Environmental Protection in 2009, replacing the earlier 2002 version. This new law serves as a comprehensive framework for environmental protection in Kosovo, introducing significant improvements and updates regarding pollution sources, pollutant limit values, environmental impact assessments, ecological monitoring, and public information and participation. Many of these innovative solutions are based on the EU environmental standards.

Kosovo’s secondary legislation – including regulations, administrative instructions, and decisions – draws extensively from EU sources, addressing a wide array of environmental aspects, such as Air quality,⁴⁷ water protection,⁴⁸ conservation of natural habitats,⁴⁹ protection of wild fauna and flora by regulating trade,⁵⁰ public information and participation,⁵¹ prevention and remedying of environmental damage,⁵² environmental protection through criminal law,⁵³ and Minimum criteria for environmental inspections.

⁴⁴ *Ibidem*.

⁴⁵ *Ibidem*, Art. 2.

⁴⁶ Constitution of the Republic of Kosovo, *op. cit.*

⁴⁷ *Ibidem*.

⁴⁸ A.P. Chave, *op. cit.*

⁴⁹ Council Directive 92/43/EEC-Conservation of natural habitats and of wild fauna and flora. OJL206 22.7.1992, pp. 7–55.

⁵⁰ Regulation (EC) 338/97 – Protection of species of wild fauna and flora by regulating trade therein, OJL 61, 3.3.1997, pp. 1–69. Amendments L61 and 17 adopted between May 26, 1997, and July 29, 2013.

⁵¹ Directive 2003/4/EC on public access to environmental information, OJL 41, 14.2.2003, pp. 26–32.

⁵² Directive 2004/35/EC – Environmental Liability Directive, OJ L 143, 30.4.2004, pp. 56–75.

⁵³ Directive 2008/99/EC – Protection of the environment through criminal law, OJ L 328, 6.12.2008, pp. 28–37.

The following subsections will focus on aligning Kosovo's legislation with European standards in four key areas: i) air quality; ii) water quality; iii) forests; and iv) environmental protection under criminal law.

Towards EU Compliance: The Alignment of Kosovo's Environmental Legislation

At the outset, it is essential to clarify the technical term "alignment" in the context of EU law⁵⁴. Experts define alignment as the process of gradually eliminating existing divergences in national legislation⁵⁵. For countries seeking EU membership, aligning their laws with EU standards is a crucial step toward achieving complete consistency, a later phase of the integration process.

Cemalovic⁵⁶ describes "alignment" as a legal term that provides a foundation for examining EU policy aimed at reducing unsustainable differences in national laws. Meanwhile, Karliuk⁵⁷ characterizes this process as one of drafting and adopting legal measures designed to ensure consistency between a third country's legislation and EU law. Romanova⁵⁸ differentiates among "legal alignment," "legal harmonization," and "legal unification," identifying these as vital processes for fostering international cooperation.

Additionally, Jabłoński⁵⁹ discusses the "Gold-Plating" method, which occurs when states aspiring to EU membership enact legislation that exceeds the requirements set by EU law, as was the case with Poland. Conversely, Steunenberg and Voermans describe the "1-for-1" method, which involves the verbatim transcription of sections of a directive into a national legal act, a strategy particularly relevant as a country nears EU membership.⁶⁰

⁵⁴ J. Metz, *Expert groups in the European Union: A sui generis phenomenon?* "Policy and Society" 2013, 32(3), pp. 267–278.

⁵⁵ LexisNexis, *Glossary: Approximation of laws definition*. LexisNexis EU Law expert, 2023. Available from: <https://www.lexisnexis.co.uk/legal/glossary/approximation-of-laws> (accessed: 05.02.2025).

⁵⁶ U. Cemalovic, *Framework for the Approximation of National Legal Systems with the European Union's Acquis: From a Vague Definition to Jurisprudential Implementation*, "Croatian Yearbook of European Law & Policy" 2015, 11(1), pp. 241–258.

⁵⁷ M. Karliuk, *Legislative alignment and application of EU law in Belarus*, [in:] *The Application of EU Law in the Eastern Neighbourhood of the European Union: Towards a Common Regulatory Space?* ed. V.P. Elsuwege, R. Petrov, Routledge 2014, pp. 1–18.

⁵⁸ T. Romanova, *Legal Approximation in Energy: A New Approach for the European Union and Russia*, [in:] *Dynamics of Energy Governance in Europe and Russia*, eds. C. Kuzemko, A.V. Belyi, A. Goldthau, M.F. Keating, Palgrave Macmillan, 2012, pp. 23–44.

⁵⁹ M. Jabłoński, *The Danger of So-Called Regulatory 'Gold-Plating' in Transposition of EU Law – Lessons from Poland*, "Studia Iuridica" 2017, 71, pp. 73–90.

⁶⁰ B. Steunenberg, W. Voermans, *The transposition of EC directives: A comparative Study of Instruments, Techniques and Processes in Six Member States*, Leiden University, 2006.

In this regard, as a potential candidate state for EU membership, Kosovo's alignment of legislation does not need to be complete or maximal; therefore, the implementation of aligned legislation can be deemed satisfactory.⁶¹

The term "alignment" is explicitly used in the Stabilization and Association Agreement (SAA) signed between Kosovo and the EU. Based on this agreement, Kosovo can partially align its domestic legislation, including environmental protection laws, with EU legislation. However, Kosovo must justify any complete or partial deviations from this alignment and establish a deadline for achieving full compliance. Importantly, this allowance for a timeframe must not be misused.

In addition, the SAA clarifies that the methods for monitoring already aligned legislation are defined by the institutions of Kosovo and the EU. To facilitate this, Kosovo institutions developed the National Program for the Implementation of the SAA 2017-2021 and 2022-2026.⁶² This program contributes to fulfilling obligations under Article 115 of the SAA related to the alignment and implementation of environmental legislation in accordance with EU standards, detailing specific measures that Kosovo's institutions must undertake during the program period. The environment is covered under Chapter 27 of the *acquis*, and outlines the current situation in this area, including air and water quality, along with the necessary steps for implementing already aligned legislation.⁶³

Harmonizing Air Quality Standards: Aligning Kosovo's Legislation with EU Regulations

The primary legal provisions for air protection in Kosovo are outlined in the Law on Environmental Protection of Kosovo, which serves as a general regulatory framework for environmental protection across various sectors, including water. Articles 1 and 2 of this law define the obligations of environmental polluters, including air polluters, and set the conditions and measures for environmental preservation and improvement. These provisions aim to ensure the creation of a clean and healthy environment for Kosovo's society. In addition, the Law on Air Protection from Pollution, which ensure a livable environment with clean air for the citizens of Kosovo, aligns with the EU Directive on the reduction of national

⁶¹ S. Shala, *The Potential of National Parliament in the EU legal alignment process: the case of Kosovo*. "Journal of Comparative Politics" 2019, 12(1), pp. 4-18; B. Steunenbergh, W. Voermans, *op. cit.*, p. 52.

⁶² National Program for Implementation of Stabilization and Association Process 2015-2021 (amended in 2022-2026). Available from: <https://konsultimet.rks-gov.net/Storage/Consultations/41048-UpdEn.PDF> (accessed: 9.02.2025).

⁶³ *Ibidem*, p. 213.

emissions of certain air pollutants.⁶⁴ Although the EC acknowledged this law as a preventive measure for air protection, it was considered delayed.⁶⁵ The law aligns with three important EU directives: the Directive on ambient air quality, the Directive on arsenic, cadmium, mercury, nickel, and polycyclic aromatic hydrocarbons in ambient air, and the Directive on national emission ceilings for certain air pollutants. However, this law is only partially aligned with these EU directives. Full alignment is anticipated through sub-legal acts.⁶⁶

Before the adoption of this law, the Ministry of Environment and Spatial Planning (MMPH) confirmed that Kosovo's national standards for air protection were 91% aligned with the Directive on ambient air quality and cleaner air for Europe⁶⁷. The same source confirm that provisions related to public information were fully aligned with Article 26 of the Ambient Air Directive and Directive on Public Participation. By 2017, Kosovo had achieved full alignment in this area. The new law also exceeds previous standards by mandating that all public information be timely, clear, understandable, and easily accessible. Given that these public information provisions are also included in the new law (specifically Articles 45–48), it is reasonable to assume that the law complies with the Directive on public consultation, at least to a 65% level, if not fully.

At the international level, air pollution remains a critical issue, especially regarding its effects on human health. In Europe, air pollution continues to be a significant concern, primarily due to its health impacts.⁶⁸ In Kosovo, while air pollution remains a serious issue, there has been some improvement in recent years.⁶⁹ Shala and others attribute this decline to the implementation of air protection regulations, which focus on controlling substances harmful to the ozone layer, regulating greenhouse gas emissions, and certifying personnel working in industries that use these substances.⁷⁰

More broadly, Articles 7–13 of the Law on Air Protection from Pollution outline that air protection in Kosovo is to be achieved through the establishment, maintenance, and improvement of a unified national air quality management system. However, this air quality monitoring system has been evaluated by the EC as largely

⁶⁴ Law No. 08/L-025 on the Protection of Air from Pollution. OGRK/No. 18/July 13, 2022, Pristina.

⁶⁵ EC, 2022. Kosovo* 2022 Progress Report. EC SWD (2022) 334 final, 12.10.2022, p. 114.

⁶⁶ Interview with Mimoza Hyseni-Spahi, Expert of Environment, 06.08.2023.

⁶⁷ Annual Report on the State of the Environment in Kosovo, 2016. Agency for Environmental Protection of Kosovo/AMMK, 59–60.

⁶⁸ K. Kuklinska, L. Wolska, J. Namiesnik, *Air quality policy in the U.S. and the EU – a review*, "Atmospheric Pollution Research" 2015, 6(1), pp. 129–137.

⁶⁹ Sh. Shala, U. Aleksander-Kwarczak, F. Rexhepi, *Long-term changes in air quality. The case of Pristina (Kosovo)*. *Geology, "Geophysics and Environment"* 2022, 48(1), pp. 5–18.

⁷⁰ *Ibidem*.

non-functional for several years. It wasn't until 2019 that the EC recognized the system as functional, though it emphasized the need for further improvements in air quality reporting. In subsequent years, the EC noted that Kosovo had made progress in real-time reporting of air quality data. Despite this progress, the EC considered necessary the improvement of the air quality plans for areas where pollutant levels exceed limit values by a wide margin still.

In its 2016 report, the MMPHI noted that the Law on Air Protection from Pollution had achieved minimal alignment (11%) with the National Directive on Emission Ceilings. According to the same report, Kosovo had nearly fully aligned its air protection provisions (98%) with the Directive on arsenic, cadmium, mercury, nickel, and polycyclic aromatic hydrocarbons in ambient air. Additionally, partial or minimal alignment (30%) had been achieved with Council Directive concerning the reduction of sulfur content in certain liquid fuels.⁷¹ By 2017, the MMPHI's report indicated that this alignment had doubled (60%). This improvement was recognized by the EC too.

Aligning Water Quality Legislation: Ensuring Kosovo Meets EU Standards

Similar to air quality, the EU legal framework for water protection is established by the Law on Environmental Protection, which sets general provisions emphasizing the preservation of natural resources like water. Chapter V addresses comprehensive water quality management and monitoring, while Chapter IV outlines pollution reduction measures. This law is complemented by the specific Law on Waters of Kosovo, which defines water resources as resources of state interest, regulates aspects of sustainable development and utilization of water resources, and establishes institutional mechanisms for the administration of water resources.⁷² Based on this law, a number of sub-legal acts have been adopted for the transposition of Directive in the field of water policy. Examples of these sub-legal acts include Administrative Instruction No. 17/2017 on the Classification of Groundwater Bodies, Administrative Instruction No. 16/2017 on the Classification of Surface Water, etc.⁷³ These sub-legal acts and the Law on Waters of Kosovo have been partially aligned with EU directives (see Table 1):

⁷¹ Directive (EU) 2016/802 Reduction in the sulphur content of certain liquid fuels (codification), OJ L 132, 21.5.2016, pp. 58–78.

⁷² Law No. 04/L-147 on the Waters of Kosovo. OGRK/No. 10 / April 29, 2013, Prishtinë.

⁷³ Administrative Instruction no.17/2017 on the Classification of Groundwater Bodies. MMPH. Available from: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=15798> (accessed: 06.03.2025).

Table 1. Alignment level of Kosovo legislation on water

EU directives	% of alignment of Kosovo legislation
Directive on water policy	57% (2016 & 2017)
Directive (91/271/EEC) on urban wastewater treatment	44% (2016 & 2017)
Directive (2006/118/EC) on the protection of groundwater against pollution and deterioration	32% (2016 & 2017)
Directive (98/83/EC) on drinking water	100% (2016 & 2017)
Bathing Water Directive (2006/7/EC)	0% (2016 & 2017)
Directive (2009/90/EC) on Quality Assurance/Quality Control	0% (2016 & 2017)
Directive on water quality standards (2008/105/EC)	5% (2016 & 2017)
Directive (2007/60/EC) on the assessment & management of flood risks	4% (2016 & 2017)
the Nitrates Directive (91/676/EEC)	26% (2016 & 2017)

Source: Annual Report on the State of the Environment in Kosovo, 2017; Agency for Environmental Protection of Kosovo, 2016, 2017.

In addition to these legal acts, the Republic of the Kosovo has adopted the State Strategy for Water⁷⁴ to respond to the legal requirements arising from the EU Directives mentioned above. In 2022, the EC noted Kosovo's progress in aligning its water legislation with EU directives but found gaps in aligning strategic water policies with EU law and implementing the water law where aligned (e.g. the incompleteness of the monitoring groundwater quality system).⁷⁵ Berisha and Goessler⁷⁶ highlighted that the water monitoring system did not meet the requirements of the EU. Kelmendi *et al.*,⁷⁷ in their research on water quality in a municipality of Kosovo as a case study (Skënderaj), also evaluated that the standards of the Drinking Water Quality Directive are not being fully implemented.

Full alignment of Kosovo's water legislation with the EU standards will take time, but it is essential given water's vital role. Like air pollution, contaminated water poses serious health risks, often caused by human activity. Therefore, both EU and Kosovo environmental laws emphasize holding polluters accountable,

⁷⁴ The State Strategy for Water 2022-2026. Government of Kosov, 2022.

⁷⁵ EC, 2022. Kosovo* 2022 Progress Report, *op. cit.*, p. 114.

⁷⁶ F. Berisha, W. Goessler, *Investigation of Drinking Water Quality in Kosovo*, "Journal of Environmental and Public Health" 2013, 1(9).

⁷⁷ M. Kelmendi, S. Kadriu, M. Sadiku, M. Aliu, E. Sadriu, M.S. Hyseni, *Assessment of drinking water quality of Kopiliq village in Skenderaj, Kosovo*, "Journal of Water and Land Development" 2018, 39, pp. 61–65.

with discussions on classifying severe pollution, including air and water contamination, as ecocide.

Kosovo Criminal Law for Environmental Protection: Aligning with EU Standards

The EU's environmental criminal legislation has evolved over the past three decades, while transboundary environmental crime remains one of the main concerns.⁷⁸ In this regard, EC proposed a directive for protection of environment through criminal sanctions, for which directive was criticised.⁷⁹ The criticisms were related to the fact that the tradition in the EU legal order is that EU legislation for environmental protection only drafts norms, while Member States have discretion and are free to choose the methods and techniques of enforcement.⁸⁰ The same author argued that criminal legislation was not necessary to ensure the effective implementation of European environmental legislation and considered it an intrusion into the competences of Member States.⁸¹ In 2003, the Framework Decision for environmental protection through criminal law⁸² was adopted, but this Decision was annulled by the EU Court of Justice due to the lack of a correct legal basis (Case C-176/03⁸³). In 2008, following this court decision, EU institutions adopted the Directive on environmental protection through criminal law.⁸⁴ According to Article 3 of this directive, EU Member States are obliged to sanction the following actions with criminal law provisions: i) discharging or introducing a quantity of materials or ionizing radiation into the air, soil, or water; ii) collecting, transporting, recovering, or disposing of hazardous waste; iii) operating a facility in which a hazardous activity is carried out or in which hazardous substances or preparations are stored; iv) producing, processing, treating, using, holding, storing, transporting, importing, exporting, or disposing of nuclear materials or other hazardous radioac-

⁷⁸ M. Faure, *The Development of Environmental Criminal Law in the EU and its Member States*, "RECIEL" 2017, 26(2), pp. 139–146.

⁷⁹ M. Faure, *European Environmental Criminal Law: Do We Really Need It?* "European Energy and Environmental Law Review" 2004, 13(1), pp. 8–29; G. Okuyucuergün, *Criminal Law in the European Union*. "Ankara Üni. Hukuk Fak. Dergisi" 2021, 70(3), pp. 909–992.

⁸⁰ *Ibidem*.

⁸¹ M. Faure, *op. cit.*, p. 41.

⁸² Council Framework Decision 2003/80/JHA-Protection of the environment through criminal law, OJL 29, 5.2.2003, 55–58.

⁸³ Case C – 176/03, *Commission of the European Communities v Council of the European Union*, ECR [2005], I-07879.

⁸⁴ Directive 2008/99/EC – Protection of the environment through criminal law, *op. cit.*

tive substances; v) any act that causes a significant deterioration of the habitat within a protected area; etc.

This list, which is not exclusive and allows EU Member States to add other measures, has been criticized for its ambiguity and double meaning.⁸⁵ Marques-Banque⁸⁶ notes that there is a low level of alignment between the sanctions for environmental crime in this directive and international legislation, which undermines effective environmental protection. It is important to mention that the legislation on environmental crimes at the EU level also includes the Directive on Pollution from Ships⁸⁷ and the imposition of fines for violations, including criminal acts for water pollution. This directive⁸⁸ provides a precise definition of violations along with the requirements that they will be subject to effective, proportionate, and dissuasive criminal sanctions. According to this directive, EU Member States are obliged to consider the discharges of polluting substances occurring in: i) internal waters, including the ports of a Member State, as long as the regime of the International Convention for the Prevention of Pollution from Ships⁸⁹ is applicable; ii) the territorial sea of a Member State; iii) straits used for international navigation that are subject to transit passage regime,⁹⁰ to the extent that a Member State exercises jurisdiction over the straits; iv) the exclusive economic zone or equivalent zone of a Member State, established in accordance with international law; etc.

It is worth noting that the adoption of this directive was preceded by a Council Framework Decision⁹¹, through which EU Member States agreed that pollution from ships should be considered a criminal act even if committed negligently. To reinforce Criminalities for this type of pollution through a system of criminal penalties at the European level, the EC proposed the aforementioned directive without changing the essence of the Framework Decision, but excluding unintentional pol-

⁸⁵ *Ibidem*.

⁸⁶ M. Marques-Banque, *Environmental Crime: Assessing and enhancing EU compliance with international environmental law*, [in:] *The European Union and Global Environmental Protection*, ed. C.M. Eritja, Routledge 2020.

⁸⁷ Directive 2005/35/EC Ship-source pollution and criminal penalties, OJ L 255, 30.9.2005, 11–21.

⁸⁸ A. Luttenberg, *Criminal Criminalities for Ship-Source Pollution in the Environmental Legislation* “7th International Conference «Economic Integration, Competition and Cooperation»” 2009, University of Rijeka.

⁸⁹ International Convention for the Prevention of Pollution from Ships (MARPOL). Available from: [https://www.imo.org/en/about/Conventions/Pages/International-Convention-for-the-Prevention-of-Pollution-from-Ships-\(MARPOL\).aspx](https://www.imo.org/en/about/Conventions/Pages/International-Convention-for-the-Prevention-of-Pollution-from-Ships-(MARPOL).aspx) (accessed: 18.02.2025).

⁹⁰ Convention on the Law of the Sea, 1982. UN. Available from: https://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf (accessed: 01.06.2024).

⁹¹ Council Framework Decision 2005/667/JHA – Strengthen the criminal-law framework for the enforcement of the law against ship-source pollution OJ L 255, 30.9.2005, pp. 164–167.

lution as a criminal act. According to Orlando,⁹² the structure, content, and underlying reasoning for environmental responsibility in the EU has changed profoundly.

Certainly, the environmental legislation of EU Member States, as well as that of many other countries, has been changed in terms of environmental criminal law. These changes have been made by them to ensure alignment with international and European standards. As mentioned above, EU Member States have been decisively obligated to comply with the two aforementioned directives on criminal environmental law, which are also based on international standards. However, it is worth noting that few EU Member States apply general criminal liability against legal entities.⁹³

Kosovo, despite not being an EU Member State, is one of those countries that has made changes to its environmental criminal legislation, considering the difficult environmental situation⁹⁴ and the challenges it faced before and after the last war in Kosovo. These changes have occurred to transpose the European model and standards for environmental protection, thus creating the need to address the issue of environmental criminal law. Nevertheless, environmental protection in Kosovo through criminal legislation was guaranteed long before the war, dating back to the 1970s, and since then, there have been changes in environmental criminal legislation in Kosovo.⁹⁵

The Criminal Code of the Republic of Kosovo (CCRK)⁹⁶ classifies the destruction of water, air, or soil as a criminal offense and specifies criminal penalties for perpetrators of these criminal acts. After declaration of independence of Kosovo, the new Criminal Code of Kosovo,⁹⁷ which incorporated criminal sanctions for environmental damages and grouped them as criminal acts: 1) general acts against the environment; 2) acts concerning hazardous materials; 3) acts against flora and fauna; and 4) acts related to illegal hunting and fishing. In principle, the Criminalities for these acts range from six months to twelve years of imprisonment, with the possibility of imposing a fine. Kosovo's criminal legislation generally meets the

⁹² E. Orlando, *The Evolution of EU Policy and Law in the Environmental Field: Achievements and Current Challenges*, [in:] *The EU, the US and Global Climate Governance*, ed. C. Bakker, F. Francioni, Routledge 2016, pp. 61–80.

⁹³ G. Vermeulen, W. De Bondt, C. Ryckman, *Liability of Legal Persons for Offences in the EU*, Maklu Publishers 2012.

⁹⁴ T.F. Del Castillo, *The EU Action to Protect the Environment in Kosovo and to Fight Environmental Crime*, [in:] *Fighting Environmental Crime in Europe and Beyond*. eds. R. Sollund, C. Stefes, A. Germani, Palgrave Macmillan 2016.

⁹⁵ V. Bytyqi, *The Development of a Crimi. Legal Framework for Environmental Protection: The Case of Kosovo*, *Socijalna Ekologija* 2002, 31(2), pp. 227–240.

⁹⁶ Code No. 06/L-074 Criminal of the Republic of Kosovo. 14.01.2019, Prishtinë. Available from: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413> (accessed: 23.01.2025).

⁹⁷ Constitution of the Republic of Kosovo, *op. cit.*

requirements of Article 5 of Directive 2008/99/EC⁹⁸ and their level of alignment is partial⁹⁹.

The implementation of this code remains to be seen in the future. However, a comparison of the MMPHI's environmental reports from 2016 to 2020 shows noticeable changes. In 2016, only 12 criminal complaints were filed, while the numbers rose to 229 in 2017, 486 in 2018-2019, and dropped to 112 in 2020 and 65 in 2022¹⁰⁰. The effectiveness of these criminal and administrative measures for environmental protection depends on the preventive and repressive actions undertaken by the relevant institutions in Kosovo.

Legal Recognition and Enforcement Challenges

Kosovo's institutions have incorporated environmental protection into the Constitution through Article 7, which sets out the foundational values of the State, emphasizing both the respect for human rights and the protection of the environment.¹⁰¹ Furthermore, Article 52 explicitly states that all citizens have a duty to preserve nature, biodiversity, and the environment as part of the country's national heritage. However, these constitutional provisions remain largely aspirational without effective and consistent implementation.

Indeed, the numerous environmental challenges Kosovo faces are closely linked to a fragile justice system and the persistent failure to enforce existing legal provisions. Without proper implementation, the current legal framework is insufficient to achieve meaningful results, particularly in the short term. Available data indicate a steady yearly decline in court judgments on environmental cases, reflecting a lack of prioritization by prosecutors and judges – an issue repeatedly highlighted by the Ombudsperson of Kosovo. This lack of institutional attention has

⁹⁸ Directive 2008/99/EC – Protection of the environment through criminal law, *op. cit.*

⁹⁹ Interview with Mimoza Hyseni-Spahi, expert of Environment, 18.05.2023.

¹⁰⁰ Annual Report on the State of the Environment in Kosovo 2016 & 2017, *op. cit.*; Annual Report on the State of the Environment in Kosovo, 2018-2019. AMMK. Available from: [https://www.ammk-rks.net/assets/cms/uploads/files/Publikime-raporte/Shqip_WEB_\(ok\).pdf](https://www.ammk-rks.net/assets/cms/uploads/files/Publikime-raporte/Shqip_WEB_(ok).pdf) (accessed: 02.02.2025); Annual Report on the State of the Environment in Kosovo, 2020. AMMK <https://www.ammk-rks.net/assets/cms/uploads/files/Dokumente/Shqip%20WEB%20mjedisi%202020.pdf> (accessed: 25.02.2025); Annual Report on the State of the Environment in Kosovo, 2022. AMMK. Available from: <https://www.ammk-rks.net/assets/cms/uploads/files/Raporti%20i%20mjedisit%202022%20drafti%20final%20alb%20-%20Finale.pdf> (accessed: 25.02.2025).

¹⁰¹ Constitution of the Republic of Kosovo, *op. cit.*

contributed to unresolved environmental issues such as severe air pollution and widespread illegal construction¹⁰².

The Head of the Prosecution Office in Peja acknowledged these concerns, stating that “much work remains to be done, as there are still significant challenges in enforcing the rule of law, especially when it comes to protecting the environment.”¹⁰³ Civil society organizations and forest inspectorate officials have also raised alarms about environmental cases being dismissed due to statute limitations, a direct consequence of the growing backlog in the judiciary.¹⁰⁴

One significant case initiated by civil society involved the Ministry of Environment’s approval of water and environmental permits for the hydropower company Hidroenergji L.L.C.¹⁰⁵ Two NGOs challenged these permits, citing a lack of public consultation, missing ecological flow studies, and inadequate environmental impact assessments. The Basic Court of Pristina initially suspended the permits, and this decision was subsequently upheld by the Court of Appeals and the Supreme Court.¹⁰⁶ However, Hidroenergji L.L.C. filed a constitutional complaint, claiming violations of its rights to a fair trial and property protection under the Constitution and the European Convention on Human Rights. The Constitutional Court annulled the prior court decisions and remanded the case for reconsideration, while denying the request for interim measures.

This case, along with others, underscores the determination of environmental activists in Kosovo, who continue their advocacy despite facing retaliatory lawsuits.¹⁰⁷ In 2020, Kelkos Energy filed defamation suits against activists Shpresa Loshaj and Adriatik Gacaferi for publicly criticizing the environmental impact of hydropower plants in the protected Deçan area.¹⁰⁸ Amnesty International condemned these actions as strategic lawsuits aimed at silencing critical voices.

¹⁰² TV 21, *Çështjet e mjedisit shqetësojnë kosovarët* (eng: Environmental issues concern Kosovars), 2019. Available from: <https://rtv21.tv/ceshtjet-e-mjedisit-shqetesojne-kosovaret/> (accessed: 17.04.2025).

¹⁰³ EULEX Kosovo, *Supporting Kosovo’s Rule of Law Institutions in Addressing Environmental Crime*, 31.01.2025. Available from: <https://eulex-kosovo.eu/?page=2,11,2992> (accessed: 17.04.2025).

¹⁰⁴ Qendra për Politika dhe Avokim, *QPA kërkon nga Gjykatat t’i trajtojnë me prioritet lëndët mjedisore* (English: QPA calls on the Courts to prioritize environmental cases). Available from: <https://ekonomia.info/sq/siguri/qpa-kerkon-nga-gjykatat-ti-trajtojne-me-prioritet-lendet-mjedisore> (17.04.2025). Interview with the official of the Kosovo Forest Inspectorate, Prishtinë (accessed: 02.02.2024).

¹⁰⁵ Judgement KI143/22 – Hidroenergji L.L.C. vs Constitutional review of Judgment ARJ.UZVP.no.51/2022, of the Supreme Court, of 19 July 2022. Available from: https://gjk-ks.org/wp-content/uploads/2023/01/ki_143_22_agj_ang.pdf (accessed: 17.04.2025).

¹⁰⁶ *Ibidem*, p. 102.

¹⁰⁷ Voice of America, *Kosovë: paditë ndaj veprimtarëve për mbrojtjen e mjedisit* (English: Kosovo: Lawsuits Against Environmental Protection Activists), 29.06.2021. Available from: <https://www.zeriamerikes.com/a/kosov%C3%AB-padit%C3%AB-ndaj-veprimtar%C3%ABve-p%C3%ABr-mbrojtjen-e-mjedisit-5947048.html> (accessed: 17.04.2025).

¹⁰⁸ *Ibidem*, p. 104.

Another case, KI 21/23, also involved Kelkos Energy and reached the Constitutional Court.¹⁰⁹ The Court ruled that the Supreme Court had violated Kelkos's right to a fair trial by failing to provide sufficient reasoning when upholding the suspension of its permits. The case was sent back for reconsideration, highlighting the judiciary's obligation to provide well-reasoned decisions in matters involving both environmental and property rights.

Civil society also played a central role in the "Adventure Park" case in Gërmia Park, a protected area.¹¹⁰ In June 2024, the Basic Court in Pristina annulled the environmental permit issued by the Municipality of Pristina in 2020 for the project's construction. The court found that the permit had been granted without a legally required Environmental Impact Assessment (EIA) and without conducting a public hearing. Previously, in 2021, the Supreme Court had suspended execution of the permit pending the outcome of the case.

Another major concern regarding Kosovo's judicial approach to environmental protection relates to the leniency of punishments for environmental crimes. Offenses such as illegal gravel extraction, dumping of construction waste in riverbeds, and deforestation are typically punished with minimal fines rather than imprisonment.¹¹¹ An analysis of 50 court judgments revealed that environmental offenders were often fined as little as €200, even in cases involving significant environmental damage – estimated at €16,000 – and repeated violations.¹¹² Moreover, courts frequently cited mitigating circumstances to justify these light penalties, while the Kosovo Prosecutorial Council lacked specific data on environmental crimes, revealing deeper systemic enforcement weaknesses.¹¹³

Conclusions

Environmental rights have made significant strides at both the international and local levels. For countries aspiring to join the EU, aligning national standards with

¹⁰⁹ Constitutional Court of Kosovo – C.no. KI21/23. Available from: https://gjk-ks.org/wp-content/uploads/2023/09/ki_21_23_agj_ang.pdf (accessed: 18.04.2025).

¹¹⁰ E. Dahsyla, *Gjykata Themelore anulon Lejën Mjedisore për "Parkun e Aventurave" në Gërmia* (English: The Basic Court annuls the Environmental Permit for the "Adventure Park" in Gërmia). Available from: https://kallxo.com/lajm/gjykata-themelore-anulon-lejen-mjedisore-per-parkun-e-aventurave-ne-germi/?utm_source=chatgpt.com (accessed: 18.04.2025).

¹¹¹ B. Iberdemaj, *Dënime me gjobë për krimet në ambient* (English: Fines for Environmental Crimes), 31.01.2023. <https://kallxo.com/gjate/denime-me-gjobe-per-krimet-ne-ambient/> (accessed: 18.04.2025).

¹¹² *Ibidem*, p. 108.

¹¹³ *Ibidem*, p. 109.

international and European norms is essential. In this context, Kosovo has successfully integrated these standards into its environmental and human rights legislation.

Kosovo's environmental legislation has undergone substantial transformation, with numerous laws adopted to improve environmental protection. The gradual alignment of national legislation with EU standards has created a legal framework partially aligned with EU law on air quality, water quality, and environmental protection under criminal law. However, there are still areas that require full compliance.

In addition, the implementation of the already aligned legislation remains inadequate. Effective realization of international and European standards in practice is crucial and needs urgent attention. The enforcement of environmental laws in Kosovo relies heavily on government decrees and decisions from ministries, and the outlook is concerning given the current effectiveness of criminal and administrative measures aimed at environmental protection. In some instances, the impact of criminal sanctions may be negligible. Without robust implementation, Kosovo's alignment with EU environmental legislation will remain largely theoretical. The discussion above underscores the critical role of judicial practice in enforcing environmental law. However, the environmental litigation cases presented illustrate both the potential and the limitations of judicial enforcement in Kosovo. These cases reveal a recurring pattern of weak judicial reasoning, inconsistent application of legal standards, and insufficiently deterrent penalties, even in the face of serious environmental harm. They highlight the practical shortcomings within court practice and demonstrate that meaningful progress in environmental protection requires a stronger, more consistent, and principled response from the judiciary.

To address these challenges, Kosovo must undertake significant institutional reforms, taking primary responsibility for the protection and enforcement of human rights, including the right to a clean and healthy environment. Additionally, citizens must actively advocate for the implementation of laws that safeguard their fundamental rights, particularly regarding environmental protection.

Environmental stewardship should not rest solely with the state; it is also a societal responsibility. Engagement from all members of society is vital for collective well-being. As discussed above, civil society plays a critical role in monitoring government actions, holding authorities accountable, and pushing for the enforcement of existing legislation. Civil organizations can engage in various activities, from raising awareness to organizing protests, advocating against environmental degradation – a concern echoed by the EC over the years. Thus, civil society's involvement in Kosovo is crucial.

Environmental education should start early, emphasizing both the right and duty to protect nature. Integrating it into curricula equips youth with knowledge on pollution, water conservation, green spaces, and global warming.¹¹⁴

Therefore, Kosovo must promptly implement the measures outlined in the EC's progress reports to avoid limitations on its advancement in this critical area. Failing to do so would adversely affect Kosovo's position regarding the protection of human rights and freedoms connected to a clean environment.

The link between the right to a clean environment and human rights is complex. Analysing international, EU, and Kosovo's constitutional texts reveals a tenuous yet significant connection. While not inherently negative, there is a need to elevate environmental protection within fundamental human rights. Kosovo recognizes it as such.

In conclusion, as emphasized in Gearty's research,¹¹⁵ environmental integrity should not merely be viewed as a tool for enforcing human rights; rather, it should serve as a fundamental condition for realizing the broader human rights agenda. Therefore, a revision of Kosovo's Constitution to reflect this perspective is imperative.

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¹¹⁴ M. Hyseni-Spahija, S. Shala, *Education on Environmental Protection as Human Right (Case of Kosovo)*, ToKnowPress. 2017. Available from: <https://toknowpress.net/ISBN/978-961-6914-21-5/papers/ML17-046.pdf> (accessed: 5.03.2025).

¹¹⁵ C. Gearty, *Do human rights help or hinder environmental protection?*, "Journal of Human Rights and the Environment" 2010, 1(1), pp. 7–22.

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