

POLICY PAPER

The right to benefit from two
separate pension schemes
for survivors of wartime
sexual violence in Kosovo



August 2025

The content of this publication is the sole and exclusive responsibility of the Kosovo Rehabilitation Center for Torture Victims (KRCT).

© Copyright belongs to KRCT. Unauthorized copying, reproduction, and publication, whether original or modified in any way, is prohibited without permission from KRCT.



This publication was co-funded by the European Union. Its contents are the sole responsibility of KRCT and do not necessarily reflect the views of the European Union.

1. EXECUTIVE SUMMARY

In Kosovo, survivors of wartime sexual violence have faced unequal institutional treatment that undermines their right to full reparation. Although they have been granted the status of civilian victims and the right to compensation since 2018, survivors upon reaching pension age are forced to choose between two legal entitlements: the age pension and/or contribution-payer pension and the pension as a civilian victim of war. This restriction not only contradicts the spirit of transitional justice and existing law, but also the best international principles on reparations for victims of sexual violence in conflict.




Court decisions regarding the first case recognized as a civilian war invalid laid the initial legal foundation for addressing this category. In this case, the Basic Court in Pristina¹ issued a ruling in 2020, which was confirmed by the Court of Appeals², and later, in 2021, by the Supreme Court³, thus setting an important precedent. Furthermore, the 2024 rulings of the Basic Court, and their confirmation by the Court of Appeals in 2025, recognizing the right to a double pension for a survivor of wartime sexual violence, have further consolidated judicial practice, setting standards that public institutions must respect. This analysis aims to provide a detailed overview and concrete recommendations for harmonizing legislation and administrative practice with domestic law and international standards.

2. CONTEXT AND IDENTIFICATION OF THE PROBLEM

With the adoption of legal amendments in 2014⁴, Kosovo took a historic step by recognizing survivors of sexual violence as civilian victims of war. This act represented a significant advancement in transitional justice, aiming to address the consequences of silence, stigma, and institutional inaction.

However, this progress has been marked by an institutional and legal gap. When survivors reach retirement age, the state requires them to choose between two rights they have earned through entirely different legal grounds: the age pension and/or contribution-payer pension⁵ and the pension as a civilian victim of war (granted as reparation for serious harm suffered during the war). This choice is not only absurd in essence but constitutes discriminatory and unjust treatment.

This discriminatory treatment:

-  **Violates the right to full reparation** according to international standards, including UN Security Council Resolutions 2467⁶ and 1325⁷, the guidelines of the UN Committee on Economic, Social and Cultural Rights⁸, and the Declaration on the Right to Reparation (*Basic Principles on the Right to a Remedy and Reparation*, 2005)⁹.
-  **Ignores practices of domestic courts**, which have begun to repeatedly recognize the right to receive double pensions in cases where the legal and social bases are different.
-  **Deepens the pain and injustice** towards a group of survivors who have already endured extreme trauma, stigma, and social isolation.

This problem is not limited only to survivors of sexual violence. Other legally recognized categories such as martyrs, war invalids, veterans, members of the Kosovo Liberation Army, civilian victims, and their family members have reported the same discriminatory treatment.

In all these cases, the administrative practice of the Department of Pensions has been based on Article 16 of Law No. 04/L-131 (2014)¹⁰, which prohibits benefiting from more than one pension scheme from the state budget. However, Article 23 of Law No. 04/L-054 (2011)¹¹ enables beneficiaries of the basic pension to realize all rights and benefits defined by this law.

In the absence of a harmonized approach, individuals from different categories of victims are treated differently by institutions, even though they are in comparable legal situations. This contradicts the **principle of equality before the law** and creates a climate of **legal uncertainty** that harms the most vulnerable victims those without legal capacity, access to lawyers, or support from civil society organizations.

This issue is not only legal, but also profoundly moral and social. Forcing someone to choose between two rights earned through suffering and work is not only unjust, but also undermines the dignity of the victim, erodes trust in justice, and disregards the principle of full reparation, which is the cornerstone of any sustainable policy for peace and reconciliation.

In this sense, the treatment of pension benefits that have different legal bases should be seen as a barometer of institutional maturity and political will for inclusive justice in Kosovo.

SITUATION ANALYSIS

Legal and Judicial Practice in Kosovo

The matter of dual pensions has attracted particular judicial and institutional attention since 2020, when the Basic Court of Prishtina rendered a decision in favor of a civilian war invalid. Subsequently, in 2021, a survivor of conflict-related sexual violence, with the legal assistance of the Kosovo Rehabilitation Centre for Torture Victims (KRCT), instituted proceedings against the State, seeking recognition of the right to concurrent enjoyment of two distinct pension schemes: the age pension and/or contribution-payer pension and the pension accorded to civilian victims of war. This action constituted a challenge to an entrenched institutional approach which, for many years, had curtailed the social entitlements of this vulnerable category, subjecting them to an inequitable and arbitrary choice.

In 2024, the Basic Court of Prishtina adjudicated in favor of three cases represented by KRCT, expressly recognizing the lawfulness of survivors' claims to benefit under two separate pension schemes, each founded on distinct legal bases¹². For the first time, the judiciary explicitly affirmed the right of survivors of conflict-related sexual violence to dual pensions, thereby establishing a historic precedent and a new jurisprudential standard within the domestic legal order.




These judgments were subsequently upheld by the Court of Appeals¹³ in 2025, thereby consolidating the practice and transforming it into authoritative guidance for all organs of public administration. In its reasoning, the Court underscored that the restriction of entitlements founded on different legal grounds constitutes a violation of fundamental principles of law, including legal certainty, equality before the law, and the prohibition of discrimination.

The cases of 2024 are not isolated instances. In recent years, an increasing number of analogous claims have been lodged by other beneficiaries of reparation schemes, particularly civilian victims of war, who have similarly been compelled to choose between the age pension and/or contribution-payer pension and the pension awarded on the basis of victimhood status.

The Gap between Judicial Decisions and Administrative Practice

Despite the establishment of a consolidated judicial practice which has unequivocally affirmed the right of civilian victims of war to receive dual pensions, the Department of Pensions continues to enforce a policy of denial. This position is grounded in a literal interpretation of Article 16 of Law No. 04/L-131 on State-Financed Pension Schemes (2014), according to which parallel enjoyment of more than one state-funded pension scheme is prohibited.

Such an interpretation is partial and fails to take into account:

-  the *sui generis* character of the legal status of categories of victims arising from the war, particularly survivors of sexual violence,
-  the reparative and non-contributory nature of the entitlements granted to these categories, and
-  the fact that the right to a dual pension does not constitute duplication of the same benefit, but rather the concurrent exercise of two independent legal rights.

Although the Department of Pensions complies with final judicial decisions in individual cases, it has not reflected upon these rulings so as to amend its administrative practice with respect to new, similar cases. The Department continues to rely on a restrictive interpretation of Article 16 of Law No. 04/L-131, thereby refusing to recognize the general right to dual pensions. This inconsistency between judicial practice and administrative implementation contravenes the principles of legal certainty, equality before the law, and the coherent integration of judicial rulings into the functioning of the administrative system.

Assessment of Alternatives for Resolving the Issue of Dual Pensions for Civilian Victims of War

In addressing the inequitable treatment of dual pension claims for civilian victims of war, including survivors of sexual violence, several options exist which must be carefully considered by the competent institutions. Each option carries certain advantages and limitations that require thorough evaluation in light of institutional sustainability, social justice, and legal harmonization domestically.

Option 1:

Harmonization of law enforcement with final court decisions

This option aims to resolve the issue through direct recognition (by the Department of Pensions) of the right to double benefit for persons who meet the criteria for age pension and/or contributory pension and are simultaneously beneficiaries of the status of civilian victim of war. Judicial decisions at various levels have already established precedents affirming that dual payment is lawful and legitimate when the entitlements derive from distinct legal bases and are not supplementary in nature, but rights acquired on the basis of specific criteria.

Implementation of this option does not require immediate legislative amendment, but rather reorientation at the level of public administration and the harmonization of decision-making practices among the competent institutions responsible for recognizing and executing such entitlements. This reorientation may be achieved through an internal circular issued by the relevant authorities, obligating officials to act in conformity with judicial rulings.

The advantages of this option are significant:

- It provides an immediate and practical solution for the unification of administrative practice in the adjudication of dual pension claims.
- It eliminates unnecessary waiting periods and delays, thereby ensuring that citizens are not compelled to await legislative changes in order to realize rights already affirmed by the judiciary.
- It upholds the principle of the rule of law and reinforces the judiciary's role as guarantor of citizens' constitutional and legal rights.
- It substantially reduces the administrative and emotional burden upon survivors, by recognizing their rights without necessitating further confrontations with the legal system.

Nevertheless, this option is not without challenges:

- First, it requires a transformation of institutional culture and a reorientation of the public administration's stance toward social entitlements, which entails additional training for legal and administrative officials.
- Second, in the absence of a clear and uniform statutory basis, the risk of divergent or selective interpretation remains, potentially resulting in legal uncertainty and incoherence in implementation.
- Finally, this option does not structurally address the problem, since it does not amend the law; consequently, it cannot guarantee that, in the future, judicial decisions will be uniformly applied by all relevant authorities.

Option 2: Legislative Amendment for Clarification and Harmonization

The second option aims at a comprehensive, sustainable, and long-term resolution through direct intervention in the relevant legislation. Within this framework, it would be necessary to amend the Law on State-Financed Pension Schemes, with the purpose of clarifying that entitlements deriving from distinct branches of social rights, one grounded in contributions made through employment, and the other as a reparative entitlement, are not mutually exclusive. A clear statutory provision expressly permitting dual payment in circumstances where an individual meets both sets of criteria would conclusively eliminate the scope for conflicting interpretations and unequal practices.

This option provides a number of essential advantages:

- It creates a solid and unequivocal legal basis, thereby ending administrative and legal uncertainties for both implementing institutions and beneficiaries.
- It ensures equal treatment for all victims, without requiring them to pursue separate and often burdensome avenues in order to claim their rights.

- It harmonizes social and reparative policies, placing transitional justice on a stable legal foundation.
- It fulfills international standards concerning the rights of victims of conflict-related sexual violence.
- It strengthens the image and legitimacy of the state as guarantor of citizens' rights, particularly those who have endured grave violence and injustices during the war.

Nonetheless, this option also faces certain shortcomings and challenges:

- Legislative amendment is a lengthy and often complex process, requiring public consultation, technical drafting of provisions, parliamentary review, and political support.
- It may encounter resistance during the approval phase, due either to potential prejudices or to a lack of full recognition of the context of victims, especially survivors of wartime sexual violence.
- In the short term, implementation of such amendments may necessitate technical adjustments within the benefits system and additional training of officials to ensure effective application of the new provisions.

Despite these challenges, legislative reform remains the most comprehensive, necessary, and sustainable solution to guarantee the respect of victims' rights, to ensure reparative justice, and to prevent structural inequalities in the future.

RECOMMENDATIONS

- ❖ 1. **Issuance of an internal circular** by the Ministry of Finance, Labour and Transfers, to harmonize the implementation of the law with the final and binding decisions of the courts.
- ❖ 2. **Initiation of a process for the amendment of Law No. 04/L-131**, clarifying that entitlements under pension schemes do not exclude reparative benefits recognized as part of war-related reparation.
- ❖ 3. **Support for a public and institutional awareness-raising campaign**, aimed at combating stigma and recognizing the contribution of survivors to peacebuilding and the pursuit of justice.

CONCLUSIONS

The issue of dual pensions for survivors of conflict-related sexual violence in Kosovo is not merely an administrative matter, but a crucial test of institutional commitment to transitional justice and the reparation of war survivors. While Kosovo has taken historic steps by officially recognizing this category as civilian victims of war, excluding them from the concurrent enjoyment of both the age pension and/or contributory pension and the civilian victim's pension constitutes a violation of international human rights standards and undermines the dignity of these individuals.

The analysis of possible options, ranging from the administrative implementation of existing judicial practice to full legislative reform, demonstrates clearly that continuation of the current treatment is untenable, whereas legislative amendment offers the most comprehensive, just, and sustainable solution for the future. Recognition of the right to a double benefit, by default, for persons who meet the criteria for an age pension and/or contributory pension, while simultaneously holding the status of civilian victim of war, may provide immediate relief and should be regarded as an interim measure, paving the way toward deeper reform.

Securing the right to dual entitlement is not only an act of justice for survivors, but also a measure that strengthens the rule of law, enhances citizens' trust, and advances Kosovo's vision of an inclusive society, sensitive to trauma and to the legacies of the past. Public policy must reflect not only the reality of suffering but also the aspiration for dignity and equality.

REFERENCES

- ¹ Decision of the Basic Court in Prishtina, A.nr. 280/17. Date: 10.04.2020.
- ² Decision of the Court of Appeals in Prishtina, AA.nr. 353/20. Date: 28.05.2021.
- ³ Decision of the Supreme Court in Prishtina, ARJ no. 77/2021. Date: 17.08.2021.
- ⁴ Law No. 04/L-172 on the Amendment and Supplementation of Law No. 04/L-054 on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Victims of War Sexual Violence, Civilian Victims, and Their Families. Link: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=9436>
- ⁵ Law No. 04/L-131 on State-Financed Pension Schemes. Link: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=9517>
- ⁶ Resolution 2467 (2019) Adopted by the Security Council at its 8514th meeting, on 23 April 2019. Link: [https://docs.un.org/en/S/RES/2467\(2019\)](https://docs.un.org/en/S/RES/2467(2019))
- ⁷ Resolution 1325 (2000) Adopted by the Security Council at its 4213th meeting, on 31 October 2000. Link: [https://docs.un.org/en/S/RES/1325\(2000\)](https://docs.un.org/en/S/RES/1325(2000))
- ⁸ UN Economic and Social Council. *Report to the Economic and Social Council on the Sixty-First Session of the Commission (2005)*. Link: [file:///D:/DOWNLOADS%202025/E_CN.4_2005_L.11_Add.5-EN%20\(1\).pdf](file:///D:/DOWNLOADS%202025/E_CN.4_2005_L.11_Add.5-EN%20(1).pdf)
- ⁹ Resolution adopted by the *General Assembly on 16 December. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (60/147) 2005*. Link: file:///D:/DOWNLOADS%202025/A_RES_60_147-EN.pdf
- ¹⁰ Article 16 of Law No. 04/L-131 (2014). Link: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=9517>
- ¹¹ Article 23 of Law No. 04/L-054 (2011) on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims and Their Families. Link: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2793>
- ¹² Decisions of the Basic Court in Prishtina, A.nr. 3076/21. Date: 05.04.2024; A.nr. 3075/21. Date: 18.04.2024; and A.nr. 3077/21. Date: 22.02.2024.
- ¹³ Decisions of the Court of Appeals in Prishtina, AA.nr. 456/24. Date: 15.05.2025; AA.nr. 488/24. Date: 08.04.2025; and AA.nr. 383/24. Date: 05.02.2025.





QKRMT-KRCT

Qendra Kosovare për Rehabilitimin
e të Mbijetuarve të Torturës

The Kosova Rehabilitation
Center for Torture Victims

Tel.: +383 (0) 38 243 707

Email: info@krct.org

Website: www.krct.org