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FOREWORD

Legislative activity in Kosovo in recent years has resulted in the adoption of numerous laws – pieces of primary legislation by the Kosovo Parliament, which have an impact in many areas of our daily life. The accessibility of primary legal acts is one of the preconditions for the establishment of the rule of law in Kosovo.

Moreover, a lack of legal literature prompted the GIZ Legal Reform Project to take the initiative in preparation of the first edition of the law compilation in 2009 and finally published in 2012.

In response to the questionnaire disseminated to the legal community the results were very positive. All the respondents appreciated the work GIZ- Legal Reform Project by publishing the compilations of laws. In addition, because of the dynamic development of the legislations the respondents suggested to publish the new edition of the updated set of the law compilations.

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, on behalf of the German Federal Ministry for Cooperation and Economic Development (BMZ) and in cooperation with Ibrahimaga Osmani Tigani (I.O.T) Law Firm, aiming to improve the situation with legal publications in Kosovo and providing the legal community with the effective working tool, has the pleasure of presenting the second edition of Compilation of Applicable Laws in Kosovo.

In these compilations you can find all respective laws with amendments and additions up to the date of publication of compilations.

Users may use legal texts from the compilations, as applicable versions without having the need to search for other legal texts. Legislation included in these compilations refers to the original source of law, title and the number of the law, and the date of publication in the Official Gazette of the Republic of Kosovo.

Compilation is divided in four main areas: Civil, Criminal, Administrative, and Commercial - Administrative law. For the easier reference, each of these areas is divided in sub-areas, part of the volume of the respective area.

Laws are compiled in 7 books organized by areas:

Compilation of laws in administrative area I divided in three volumes with the following content:

Volume I Legislation: State interests, Public order and security, Human rights, Civil status, Environment and construction;

Volume II Legislation: Healthcare, Work and social, Economy and Industry, Public administration, Justice, Local government;

Volume III Legislation: Media and publishing, Foreign and humanitarian affairs, Culture and sport, Communication, Education and Science, Inspectorates and International Conventions.

Compilation of laws in civil area has one volume with the following content: Systemic civil law, Procedural laws and Non- contentious procedural laws.

Compilation of criminal laws has one volume with the following content: Material laws and procedural laws.

Compilation of economic laws is divided in two volumes:

Volume I Legislation: Trade and Industry sector, Companies, Privatization, Concessions and other forms of investment, Industrial property sector, Publishing activities, Agricultural, Livestock, Waters, Forestry, Fisheries, Beekeeping and Hunting sector;

Volume II Legislation: Energy and Mines sector, banking and Finance sector, Tax and Customs Legislation, International Agreements on economic development, Public finances and Audit.

These compilations are available in printed version in Albanian language, whereas version in English and Serbian are available on CD-ROM.

GIZ – Legal Reform Project in Kosovo wishes to thank Ibrahimaga Osmani Tigani Law Firm and all their associates who assisted in this work, with hope that this and future publications of compilations will facilitate use of applicable laws to legal professionals (in their respective duties), and will enable to citizens to easily find a law of their interest.

Volkmar Theobald

Project Manager

Legal Reform Project - GIZ

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

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MATERIAL LAWS

CODE No. 04/L-082
CRIMINAL CODE OF THE REPUBLIC OF KOSOVO

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Criminal laws

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo;

Approves

CRIMINAL CODE OF THE REPUBLIC OF KOSOVO

GENERAL PART

CHAPTER I GENERAL PROVISIONS

Article 1

Basis and limits of criminal sanctions

1. Criminal offenses and criminal sanctions are foreseen only for those actions that infringe and violate the freedoms, human rights and other rights and social values guaranteed and protected by the Constitution of the Republic of Kosovo and international law to the extent that is not possible to protect these values without criminal sanctions.
2. The criminal offenses and the types of measures and the severity of the criminal sanctions for the perpetrators of criminal offenses are based on the necessity of criminal justice enforcement and the proportionality of the level and nature of the danger for human rights and freedoms and social values.

Article 2

Principle of legality

1. Criminal offenses, criminal sanctions and measures of mandatory treatment are defined only by law.
2. No criminal sanction or measure of mandatory treatment may be imposed on a person for an act, if prior to the commission of the act, the law did not define the act as a criminal offense and did not provide a criminal sanction or measure of mandatory treatment for the act.
3. The definition of a criminal offense shall be strictly construed and interpretation by analogy shall not be permitted. In case of ambiguity, the definition of a criminal offense shall be interpreted in favor of the person against whom the criminal proceedings are ongoing.

Article 3

Application of the most favorable law

1. The law in effect at the time a criminal offense was committed shall be applied to the perpetrator.
2. In the event of a change in the law applicable to a given case prior to a final decision, the law most favorable to the perpetrator shall apply.

3. When a new law no longer criminalizes an act but a perpetrator has been convicted by a final decision in accordance with the prior law, the enforcement of the criminal sanction shall not commence or, if it has commenced, shall cease.
4. A law, which was expressly in force only for a determined time, shall be applicable to criminal offenses committed while it was in force, even if it is no longer in force, unless the law itself expressly provides otherwise.

Article 4

Criminal sanctions and measures of mandatory treatment

1. The criminal sanctions are:
 - 1.1. principal punishments;
 - 1.2. alternative punishments;
 - 1.3. accessory punishments; and
 - 1.4. judicial admonition.
2. The measures of mandatory treatments that may be imposed on a perpetrator who is not criminally liable or is addicted to drugs or alcohol are:
 - 2.1. mandatory psychiatric treatment and custody in a health care institution;
 - 2.2. mandatory psychiatric treatment at liberty; and
 - 2.3. mandatory rehabilitation treatment of persons addicted to drugs or alcohol.

Article 5

Limitations on the execution of criminal sanctions and measures of mandatory treatment

In the execution of a criminal sanction or a measure of mandatory treatment, certain rights of the perpetrator may be denied or restricted only to the extent that is commensurate with the nature or the content of the sanction or measure and only in a manner that provides for the respect of his or her human dignity, and is in compliance with international law.

Article 6

Application of the general part of this Code

The provisions of the General Part of this Code apply to all criminal offenses defined in the Laws of the Republic of Kosovo.

CHAPTER II CRIMINAL OFFENSES AND CRIMINAL LIABILITY

Article 7

Criminal offense

A criminal offense is an unlawful act which is defined by law as a criminal offense, the characteristics of which are defined by law and for which a criminal sanction or a measure of mandatory treatment is prescribed by the law.

Article 8
Manner of commission of criminal offenses

1. A criminal offense may be committed by an act or omission.
2. A criminal offense is committed by omission only when the perpetrator was obliged to undertake an act but fails to do so.

Article 9
Time of commission of criminal offenses

A criminal offense is committed at the time the perpetrator acted or ought to have acted, irrespective of when the consequence occurred.

Article 10
Location of commission of criminal offenses

1. A criminal offense is committed at the location where the perpetrator acted or ought to have acted, as well as at the location where the consequence occurred.
2. A criminal offense is attempted at the location where the perpetrator acted, as well as at the location where the perpetrator intended the consequence to occur.

Article 11
Act of minor significance

An act shall not constitute a criminal offense even though it has the characteristics of a criminal offense as defined by law if it is an act of minor significance. The act shall be deemed to be of minor significance when the danger involved is insignificant due to the nature or gravity of the act; the absence or insignificance of intended consequences; the circumstances in which the act was committed; the low degree of criminal liability of the perpetrator; or, the personal circumstances of the perpetrator.

Article 12
Necessary defense

1. An act committed in necessary defense is not a criminal offense.
2. An act is committed in necessary defense when a person commits the act to avert an unlawful, real and imminent attack against himself, herself or another person and the nature of the act is proportionate to the degree of danger posed by the attack.
3. An act that is disproportionate to the degree of danger posed by an attack exceeds the limits of the necessary defense.
4. When the perpetrator exceeds the limits of necessary defense, the punishment may be reduced. When the perpetrator exceeds the limits by reason of strong trauma or fear caused by the attack, the punishment may be waived.

Article 13
Extreme necessity

1. An act committed in extreme necessity is not a criminal offense.
2. An act is committed in extreme necessity when a person commits the act to avert an imminent and unprovoked danger from himself, herself or another person which could not have otherwise been averted, provided that the harm created to avert the danger does not exceed the harm threatened.
3. When the perpetrator caused the danger through negligence, or exceeds the limits of extreme necessity, the punishment may be reduced. When the perpetrator exceeds the limits in exceptionally mitigating circumstances, the punishment may be waived.
4. There is no extreme necessity if the perpetrator was obliged by law to expose himself or herself to the danger.

Article 14
Violence or threat

1. An act committed under the influence of unbearable violence or unbearable threat is not a criminal offense. An act will only be considered to have been committed under influence of unbearable violence or unbearable threat if, when the danger ceases to exist, the person immediately reports the influence of unbearable violence or unbearable threat and the unlawful act to the competent authority.
2. If the criminal offense is committed under the influence of a bearable violence or bearable threat the punishment may be reduced. An act will only be considered to have been committed under influence of bearable violence or bearable threat if, when the danger ceases to exist, the person immediately reports the influence of unbearable violence or unbearable threat and the unlawful act to the competent authority.
3. Whoever uses the violence or threat as provided for in paragraph 1 and 2 of this Article, is considered a perpetrator of a criminal offense.

Article 15
Acts committed under coercion

1. An act committed under coercion is not a criminal offense.
2. An act is committed under coercion when a person, faced with imminent force, or threat of violence endangering life, body or liberty which cannot otherwise be avoided, commits an unlawful act to avert the danger from himself, herself or a person with whom he or she has a domestic relationship. An act will only be considered to have been committed under coercion if, when the danger ceases to exist, the person immediately reports the coercion and the unlawful act to the competent authority.
3. An act is not committed under coercion if, and to the extent that, the perpetrator could be expected under the circumstances to accept the danger, in particular because he or she caused the danger or because he or she was under a legal obligation to face such imminent force or threat of violence. In such circumstances the punishment may be reduced.

Article 16
Superior order

1. When a criminal offense has been committed by a person pursuant to an order of a government or of a superior, whether military or civilian, the perpetrator shall not be exempt from criminal liability unless:
 - 1.1. the person was under a legal obligation to obey such an order;
 - 1.2. the person did not know that the order was unlawful; and
 - 1.3. the order was not manifestly unlawful.
2. Orders to commit genocide or other crimes against humanity in all circumstances are manifestly unlawful.

Article 17
Criminal liability

1. A perpetrator of a criminal offense is criminally liable if he or she is mentally competent and has committed the criminal offense intentionally or negligently.
2. A person is criminally liable for the negligent commission of a criminal offense only when this has been explicitly provided for by law.
3. A person is not criminally liable if, at the time of the commission of a criminal offense, he or she is under the age of fourteen (14) years.

Article 18
Mental incompetence and diminished mental capacity

1. A person who commits a criminal offense is considered mentally incompetent if, at the time of the commission of a criminal offense, he or she suffered from a permanent or temporary mental illness, mental disorder or disturbance in mental development that affected his or her mental functioning so that he or she was not able to understand the nature and importance or consequences of his or her actions or omissions or was not able to control his or her actions or omissions or to understand that he or she was committing a criminal offense.
2. A person who commits a criminal offense is considered to have diminished mental capacity if, at the time of the commission of a criminal offense, his or her ability to understand the nature and importance or consequences of his or her actions or omissions was substantially diminished because of the conditions in paragraph 1 of this Article. Such person is criminally liable but the court shall take these conditions into consideration when deciding the duration and the type of sanction or measure of mandatory treatment it imposes.

Article 19
Committing criminal offenses in a state of intoxication

A person is criminally liable if he or she, by use of alcohol, narcotics, or by another method, renders himself or herself in such a state that he or she cannot understand the significance of his or her own actions or omissions or control his or her own behavior,

if prior to bringing himself or herself to such a state, such actions or omissions were intended or if he or she is negligent in relation to the criminal offense and the law provides for criminal liability for the negligent commission of this offense.

Article 20
Causal link

A person is not criminally liable if there is no causal connection between the action or omission and the consequences.

Article 21
Intent

1. A criminal offense may be committed with direct or eventual intent.
2. A person acts with direct intent when he or she is aware of his or her act and desires its commission.
3. A person acts with eventual intent when he or she is aware that a prohibited consequence can occur as a result of his or her act or omission and he or she accedes to its occurrence.

Article 22
Knowledge, intention, negligence or purpose

Knowledge, intention, negligence or purpose required as an element of a criminal offense may be inferred from factual circumstances.

Article 23
Negligence

1. A criminal offense may be committed by conscious or unconscious negligence.
2. A person acts with conscious negligence when he or she is aware that a prohibited consequence can occur as a result of his or her act or omission but recklessly thinks that it will not occur or that he or she will be able to prevent it from occurring.
3. A person acts with unconscious negligence when he or she is unaware that a prohibited consequence can occur as a result of his or her act or omission, although under the circumstances and according to his or her personal characteristics he or she should or could have been aware of such a possibility.

Article 24
Liability for graver consequences

When the commission of a criminal offense causes consequences which exceed the intent of the perpetrator and the law has provided for a more severe punishment, the more severe punishment may be imposed if the consequence is attributable to the perpetrator's negligence.

Article 25
Mistake of fact

1. A person is not criminally liable if, at the time of committing a criminal offense, he or she is unaware of a characteristic of that act or he or she mistakenly believed that circumstances existed which, had they in fact existed, would have rendered the act permissible.
2. If a person's mistake is due to negligence, he or she is criminally liable for a criminal offense which has been negligently committed if the law specifically provides for criminal liability for the negligent commission of that offense.

Article 26
Mistake of law

1. A person who, for justifiable reasons, did not know or could not have known that an act was prohibited is not criminally liable.
2. If the mistake was avoidable, the person is criminally liable but the punishment may be reduced.
3. A mistake of law is avoidable if any person could have easily known that the act was unlawful or if the perpetrator, by reason of his or her profession, occupation or service was obliged to know the act was unlawful.

Article 27
Preparation of a criminal offense

1. Whoever intentionally prepares a criminal offense shall be punished only if expressly provided for by law.
2. If the law prescribes the punishment for the preparation of a certain criminal offense, the preparation of the criminal offense includes supplying or making available the means to commit a criminal offense; removing the impediments to the commission of a criminal offense; agreeing, planning or organizing with another person the commission of a criminal offense; as well as, other activities that create conditions for the direct commission of a criminal offense, but which do not constitute the act itself.

Article 28
Attempt

1. Whoever intentionally takes action toward the commission of an offense but the action is not completed or the elements of the intended offense are not fulfilled has attempted to commit a criminal offense.
2. An attempt to commit a criminal offense for which a punishment of three or more years may be imposed shall be punishable. An attempt to commit any other criminal offense shall be punishable only if expressly provided for by law.
3. A person who attempts to commit a criminal offense shall be punished as if he or she committed the criminal offense, however, the punishment may be reduced.

Article 29
Inappropriate attempt

The court may waive the punishment of a person who attempts to commit a criminal offense with inappropriate means or against an inappropriate object.

Article 30
Voluntary abandonment of attempt

1. The court may waive the punishment of a person for a punishable attempt of a criminal offense if such person voluntarily abandons the commission of a criminal offense which he or she has commenced, even though he or she is aware that according to all the circumstances he or she could continue the act or, if after the completion of such an act, he or she prevents the occurrence of the consequences.
2. The perpetrator shall be punished for those acts described in paragraph 1 of this Article which constitute another separate criminal offense.

COLLABORATION IN CRIMINAL OFFENSES

Article 31
Co-perpetration

When two or more persons jointly commit a criminal offense by participating in the commission of a criminal offense or by substantially contributing to its commission in any other way, each of them shall be liable and punished as prescribed for the criminal offense.

Article 32
Incitement

1. Whoever intentionally incites another person to commit a criminal offense shall be punished as if he or she committed the criminal offense if the criminal offense is committed.
2. Whoever intentionally incites another person to commit a criminal offense shall be punished as if he or she committed the criminal offense if the criminal offense is attempted but not committed.
3. Whoever intentionally incites another person to commit a criminal offense punishable by imprisonment of at least five (5) years and the offense is not even attempted, the inciter shall be punished for attempt.

Article 33
Assistance

1. Whoever intentionally assists another person in the commission of a criminal offense shall be punished more leniently.
2. Assistance in committing a criminal offense includes, but is not limited to: giving

Criminal laws

advice or instruction on how to commit a criminal offense; making available the means to commit a criminal offense; creating conditions or removing the impediments to the commission of a criminal offense; or, promising in advance to conceal evidence of the commission of a criminal offense, the perpetrator or identity of the perpetrator, the means used for the commission of a criminal offense, or the profits or gains which result from the commission of a criminal offense.

Article 34 Criminal association

1. Whoever agrees, explicitly or implicitly, with one or more persons to commit or to incite the commission of a criminal offense that is punishable by imprisonment of at least five (5) years, and undertakes preparatory acts for the fulfillment of such agreement, shall be punished as provided for the criminal offense.
2. The court may reduce or waive the punishment of a person who is criminally liable as provided for in paragraph 1 of this Article if such person:
 - 2.1. voluntarily renounces the agreement;
 - 2.2. voluntarily undertakes actions to prevent the continuous existence of the criminal association or the commission of a criminal offense consistent with its goals; or
 - 2.3. voluntarily discloses knowledge of the agreement to the police while the planned criminal offense may still be prevented.

Article 35 Agreement to commit criminal offense

1. Whoever agrees with one or more other persons to commit a criminal offense and one or more of such persons does any substantial act towards the commission of the criminal offense, shall be punished as provided for the criminal offense.
2. For the purposes of this Article, the term “substantial act towards the commission of a crime,” need not be a criminal act, but shall be a substantial preparatory step towards the commission of the crime which the persons have agreed to commit.

Article 36 Limits on criminal liability and punishment for collaboration

1. A co-perpetrator is criminally liable within the limits of his or her intent or negligence.
2. A person who incites or assists in the commission of a criminal offense shall be held criminally liable within the limits of his or her intent.
3. Personal circumstances including relations and capacities which may result in exemption from criminal responsibility, waiver of punishment, the existence of graver or lighter forms of the criminal offense or which have an effect on the determination of the punishment shall only be taken into account with respect to the person to whom they relate. However, if the personal circumstances which

relate to the offender have an impact on a more severe or a more lenient punishment, and these circumstances constitute an element of the criminal offense, the co-perpetrator, inciter or assistant is liable for the punishment foreseen for the criminal offense when he or she knew about this circumstance, even if it did not relate to him or her.

SPECIAL PROVISIONS ON CRIMINAL LIABILITY FOR CRIMINAL OFFENSES COMMITTED THROUGH THE MEDIA

Article 37

Criminal liability of chief editors, publishers, printers or manufacturers

1. The author of the information is criminally liable when a criminal offense has been committed through the publication of information in the newspapers or other type of periodical, radio, television, internet or other means of communication.
2. The responsible chief editor or the person replacing him or her at the time of the publication of information is criminally liable when:
 - 2.1. the author cannot be found or tried before a court of the Republic of Kosovo;
 - 2.2. the publication of the information was made without the knowledge of the author or against his or her will; or
 - 2.3. if during the time of publication of the information, factual and legal impediments existed for the initiation of criminal proceedings against the perpetrator and continue to exist.
3. The chief editor or the person replacing him or her at the time of publication of information is not held criminally liable if for justified reasons he or she was not aware of a circumstance as provided for in paragraph 2 of this Article.
4. The publisher of a newspaper or other type of periodical is criminally liable when the chief editor or the person replacing him or her at the time of the publication of information in the newspaper or other type of periodical is criminally liable in accordance with paragraph 2 of this Article.
5. When the publisher is criminally liable in accordance with paragraph 4 of this Article and it is not possible to punish the publisher due to legal or factual impediments, the person who printed the information is criminally liable if he or she knew that such legal or factual impediments existed.
6. The manufacturer is criminally liable when the chief editor or the person replacing him or her at the time of the publication of information by means of magnetic tape, film, slides, photographs or other video and audio devices intended for the mass media or for presentation to the public or to a large number of persons are criminally liable in accordance with paragraph 2 of this Article.
7. When the publisher, the printer or the manufacturer who is criminally liable pursuant to this Article is a legal person or a public entity, the person responsible for the printing or manufacturing activities is criminally liable.
8. The persons referred to in this Article are not criminally liable if the publication of information is an accurate report of a session of a public entity or a statement by an official person.

Article 38
Protecting sources of information

1. A person who takes part as a professional in the publication of information or as a member of an editorial board of the media and his or her assistant are not criminally liable if they refuse to disclose the author of a publication or the sources of information.
2. The persons referred to in paragraph 1 of this Article are criminally liable if the court finds that:
 - 2.1. the disclosure of information is necessary to prevent an attack that constitutes an imminent threat to life or physical integrity of any person.

Article 39
Application of general provisions on criminal liability

The provisions on the criminal liability of persons referred to in Articles 37 and 38 of this Code are applicable only if those persons are not held criminally liable under general provisions on criminal liability defined in this Code.

Article 40
Criminal liability of legal persons

1. A legal person is liable for the criminal offence of the responsible person, who has committed a criminal offence, acting on behalf of the legal person within his or her authorizations, with the purpose to gain a benefit or has caused damages for that legal person. The liability of legal person exists even when the actions of the legal person were in contradiction with the business policies or the orders of the legal person.
2. Under the conditions provided for in paragraph 1 of this Article, the legal person shall also be liable for criminal offences in cases of the responsible person, who has committed the criminal offence, who was not sentenced for that criminal offence.
3. The liability of the legal person is based on the culpability of the responsible person.
4. The subjective element of the criminal offence, which exists only for the responsible person, shall be evaluated in relation with the legal person, if the basis for the liability provided for in paragraph 1 of this Article, was fulfilled.

CHAPTER III
PUNISHMENTS

Article 41
Purpose of punishments

1. The purposes of punishment are:
 - 1.1. to prevent the perpetrator from committing criminal offenses in the future and to rehabilitate the perpetrator;

- 1.2. to prevent other persons from committing criminal offenses;
- 1.3. to provide compensation to victims or the community for losses or damages caused by the criminal conduct; and
- 1.4. to express the judgment of society for criminal offenses, increase morality and strengthen the obligation to respect the law.

Article 42
Types of punishments

1. The types of punishment are:
 - 1.1. principal punishments;
 - 1.2. alternative punishments; and
 - 1.3. accessory punishments.

PRINCIPAL PUNISHMENTS

Article 43
Principal punishments

1. The principal punishments are:
 - 1.1. punishment of life long imprisonment;
 - 1.2. punishment of imprisonment;
 - 1.3. punishment of a fine.

Article 44
Punishment of life long imprisonment

1. The law may provide for the punishment of life long imprisonment for the most serious criminal offenses committed under especially aggravating circumstances or criminal offenses that have caused severe consequences.
2. The law shall not prescribe the punishment of life long imprisonment as the only principal punishment for a particular criminal offense.
3. Life long imprisonment cannot be imposed on a person who at the time of committing the criminal offense was under twenty one (21) years of age or on a person who at the time of committing the offense had substantially diminished mental capacity.

Article 45
Punishment of imprisonment

1. The punishment of imprisonment may not be shorter than thirty (30) days or more than twenty five (25) years.
2. The punishment of imprisonment is imposed in full years and months and in cases where the term is up to six (6) months, in full days.

Article 46
Punishment of fine

1. The punishment of a fine may not be less than one hundred (100) European Euros (hereinafter “EUR”). The punishment of a fine may not exceed twenty five thousand (25,000) EUR or, in the case of criminal offenses related to terrorism, trafficking in persons, organized crime or criminal offenses committed to obtain a material benefit, it may not exceed five hundred thousand (500,000) EUR.
2. The judgment shall determine the deadline for the payment of a fine. The deadline may not be less than fifteen (15) days or more than three (3) months, but in justifiable circumstances, the court may allow the fine to be paid in installments over a period not exceeding two (2) years. The judgment shall also determine when the installments are to be paid and state that the privilege of paying by installments will be revoked if the convicted person fails to pay an installment on time.
3. If the convicted person remains unwilling or unable to pay the fine, the court may replace the punishment of fine with the punishment of imprisonment. When a punishment of imprisonment is substituted for a fine, one day in prison is calculated as twenty (20) EUR of the fine. However, the punishment of imprisonment shall not exceed three (3) years.
4. If the convicted person is unwilling or unable to pay the full fine, the Court shall replace the balance of the unpaid fine with punishment of imprisonment as provided for in paragraph 3 of this Article. If the convicted person pays the balance of the fine, the execution of his sentence shall be stayed.
5. If the convicted person remains unwilling or unable to pay the fine, instead of imposing a punishment of imprisonment, the court may, with the consent of the convicted person, substitute an order for community service work for the fine. An order for community service work shall calculate eight (8) working hours of community service work for each twenty (20) EUR of the fine. The community service work shall not exceed two hundred forty (240) working hours.
6. A fine shall not be collected after the death of the convicted person.

Article 47
Replacement of imprisonment with punishment of fine

The court may, with the consent of the convicted person, replace the punishment of up to six (6) months imprisonment with the punishment of fine.

Article 48
Replacement of punishment with order for community service work

1. The court may, with the consent of the convicted person, replace the punishment of up to six (6) months imprisonment with an order for community service work.
2. When imposing an order for community service work, the court shall order the convicted person to perform unpaid community service work for a specified term of thirty (30) to two hundred forty (240) working hours. The probation service will determine the type of community service to be performed by the convicted person,

designate the specific organization for which the convicted person will perform the community service, decide on the days of the week when the community service work will be performed and supervise the performance of the community service work.

3. The community service work shall be performed within a period specified by the court which shall not exceed one (1) year.
4. If, upon the expiry of the specified period, the convicted person has not performed the community service work or has only partially performed such community service work, the court shall order a term of imprisonment. One (1) day of imprisonment shall be ordered for every eight (8) hours of community service that was not performed.

ALTERNATIVE PUNISHMENTS

Article 49

Alternative punishments

1. The alternative punishments are:
 - 1.1. suspended sentence;
 - 1.2. semi-liberty; and
 - 1.3. an order for community service work.
2. When imposing a suspended sentence, the court may also impose:
 - 2.1. an order for mandatory rehabilitation treatment; and
 - 2.2. an order for supervision by the probation service.

Article 50

Purpose of suspended sentences

The purpose of a suspended sentence is to not impose a punishment for a criminal offense that is not severe when a reprimand with the threat of punishment is sufficient to prevent the perpetrator from committing a criminal offense.

Article 51

Suspended sentence

1. The court may impose a suspended sentence on the perpetrator in accordance with the provisions of this Code.
2. In imposing a suspended sentence, the court shall determine a punishment for the perpetrator of the criminal offense and at the same time order that this punishment shall not be executed if the convicted person does not commit another criminal offense for the verification time determined by the court. The verification period cannot be less than one (1) year or more than five (5) years.
3. Within a suspended sentence the court may order that the punishment be executed if, within a determined time, the convicted person does not return the material benefit acquired from the commission of the criminal offense, does not compensate for the damage caused by the criminal offense or does not perform another

obligation provided for by provisions in this Code. The court shall determine a deadline for the performance of these conditions within the verification period.

4. When the court imposes a punishment of imprisonment or a fine, the court may impose a suspended sentence for both punishments or only for the punishment of imprisonment.

Article 52

Conditions for imposing suspended sentences

1. A suspended sentence may be imposed on a perpetrator of a criminal offense for which the punishment of imprisonment of up to five (5) years is provided for by the law.
2. A suspended sentence may be imposed on a perpetrator of a criminal offense for which the punishment of imprisonment of up to ten (10) years is provided by for the law if the provisions of mitigation of the punishment are applied.
3. A suspended sentence may be imposed on a perpetrator as foreseen in paragraph 1 and 2 of this Article when the court imposes a punishment of a fine or of imprisonment of up to two (2) years, either for a single offense or concurrent offenses.
4. When determining whether to impose a suspended sentence, the court shall consider, in particular, the purpose of a suspended sentence, the past conduct of the perpetrator, his or her behavior after the commission of the criminal offense, the degree of criminal liability and other circumstances under which the criminal offense was committed.
5. When the court imposes a punishment of imprisonment and a fine, the court may impose a suspended sentence for both punishments or for only the punishment of imprisonment.

Article 53

Revocation of suspended sentence due to newly committed criminal offenses

1. The court shall revoke a suspended sentence if, during the verification period, the convicted person commits one or more criminal offenses for which a punishment of imprisonment of two (2) or more years has been imposed.
2. The court may revoke a suspended sentence if, during the verification period, the convicted person commits one or more criminal offenses for which a punishment of imprisonment of less than two (2) years or a punishment of a fine has been imposed, after considering all the circumstances related to the committed criminal offenses and the convicted person, and especially the similarity of the committed criminal offenses, their importance and the motives for committing the criminal offenses.
3. When revoking a suspended sentence, the court shall impose a single punishment for the criminal offense committed previously and the new criminal offense, in accordance with Article 80 of this Code and treat the revoked suspended sentence as determined.
4. If the court does not revoke a suspended sentence, it may impose a suspended sentence or a punishment of imprisonment or a punishment of a fine for the newly

committed criminal offense. If the court imposes a suspended sentence for the newly-committed criminal offense, the court shall apply the provisions of Article 80 of this Code to impose a compound suspended sentence for both the previously committed and the newly committed criminal offense and it shall also determine a compound verification period which can be no less than one (1) year and no more than five (5) years, commencing on the day the sentencing decision becomes final. If the court imposes a punishment of imprisonment for the newly committed criminal offense, the period of time spent serving such term of imprisonment shall not be deducted from the verification period established by the suspended sentence for the previously committed act.

Article 54

Revocation of suspended sentences due to previously committed criminal offense

The court shall revoke the suspended sentence if, after imposing the suspended sentence, there is a final judgment establishing that the convicted person committed another criminal offense prior to the imposition of the suspended sentence and if the court determines that the suspended sentence would have not been imposed if that criminal offense had been known. In such a case, the provisions of paragraph 3 Article 53 of this Code shall apply.

Article 55

Revocation of suspended sentences due to failure to comply with conditions

If one or more conditions are imposed with a suspended sentence as provided for in paragraph 3 Article 51 and 59 of this Code and the convicted person fails to comply with the condition, or conditions, within the time determined by the court, the court may, within the verification period, extend the term for compliance with the condition or it may revoke the suspended sentence and execute the punishment provided for in the suspended sentence. If the court determines that the convicted person was unable to comply with the condition for justified reasons, the court shall waive the performance of that condition or replace it with another appropriate condition provided for by law.

Article 56

Deadlines for revocation of suspended sentences

1. A suspended sentence may be revoked during the verification period. If a convicted person commits a criminal offense requiring revocation of the suspended sentence during the verification period but it is established by a final judgment only after the expiry of the verification period, the suspended sentence may be revoked no later than one (1) year after the expiry of the verification period.
2. If a convicted person fails to comply with a condition imposed by the court as provided for in paragraph 3 of Article 51 and 59 of this Code within the time determined by the court, the court may revoke the suspended sentence no later than one (1) year after the expiry of the performance of obligations.

Article 57

Suspended sentence with order for mandatory rehabilitation treatment

1. The court may impose a suspended sentence with an order for mandatory rehabilitation treatment, where the convicted person is a first time offender and a drug addict or alcoholic if the court, after reviewing the report of the probation service, determines that the primary factor motivating the criminal offense was related to his or her drug or alcohol addiction and that successful treatment would minimize the risk of the commission of another criminal offense. The court shall state the period during which the mandatory treatment program should commence and when it should be completed. The period of mandatory treatment shall not be less than three (3) months and shall not exceed twelve (12) months.
2. The probation service shall supervise the rehabilitation treatment program.
3. The punishment will be deemed as served upon completion of the rehabilitation treatment program as required by the Probation Service.
4. If the convicted person withdraws from the rehabilitation treatment program, does not maintain contact with the Probation Service or does not perform obligations related to the order for treatment, the court may replace the previous obligation with a different one, extend the duration of the order for treatment or revoke the suspended sentence and order the execution of the punishment provided for in the suspended sentence.

Article 58

Suspended sentence with order for supervision by the probation service

1. The court may impose a suspended sentence with an order for supervision by the probation service if the court determines that the integration of the convicted person into society or compliance with any conditions imposed by the court will be better achieved through supervision by the probation service.
2. When imposing a suspended sentence with an order for supervision by the probation service, the court shall order the convicted person to maintain contact with the probation service. The court may also impose one or more of the conditions set out in paragraph 3 of Article 51 or Article 59 of this Code. The duration of a condition imposed shall not be less than six (6) months or more than three (3) years.
3. When imposing the obligations provided for in Article 59 of this Code, the court shall consider, in particular, the age of the convicted person; his or her general health and mental condition; lifestyle and needs, especially those related to family, school and work; the motives for committing the criminal offense; his or her behavior after its commission; his or her past conduct; personal and family-related circumstances; and, other circumstances which are important for the selection of the kind of supervision and its duration.
4. If the convicted person fails to maintain contact with the probation service or to perform an obligation provided for in Article 59 of this Code, as ordered by the court, the court may replace the previous obligation with a different one, extend the duration of the supervision within the verification period, or revoke the suspended sentence.

Article 59

Types of obligations set forth in a suspended sentence

1. A suspended sentence may also include an order to perform one or more of the following obligations:
 - 1.1. to receive medical or rehabilitation care in a health care institution;
 - 1.2. to undergo a medical or rehabilitation treatment program;
 - 1.3. to visit a psychologist and/or another consultant and act in accordance with their recommendations;
 - 1.4. to receive vocational training for a certain profession;
 - 1.5. to perform a work activity;
 - 1.6. to use wage and other income or property to fulfill a family obligation;
 - 1.7. to refrain from changing residence without informing the probation service;
 - 1.8. to abstain from the use of alcohol or drugs;
 - 1.9. to refrain from frequenting certain places or locales;
 - 1.10. to refrain from meeting or contacting certain people;
 - 1.11. to refrain from carrying any kind of weapon;
 - 1.12. to compensate or retribute the victim of the offense;
 - 1.13. to return the material benefit acquired from the commission of the criminal offense;
 - 1.14. not to possess or use a computer or to access the internet as directed by the court; or,
 - 1.15. to provide financial reports as directed by the court.

Article 60

Order for community service work

1. An order for community service work may be imposed on a convicted person, if the court imposed a punishment of a fine of up to two thousand five hundred (2,500) EUR or a punishment of imprisonment of up to one (1) year. Community service work may only be ordered upon the consent of the convicted person.
2. When imposing an order for community service work, the court shall order the convicted person to perform unpaid community service work for a specified term of thirty (30) to two hundred forty (240) working hours. The probation service will determine the type of community service to be performed by the convicted person, designate the specific organization for which the convicted person will perform the community service, decide on the days of the week when the community service work will be performed and supervise the performance of the community service work.
3. The community service work shall be performed within a period of time determined by the court which shall not exceed one (1) year.
4. When imposing an order for community service work, the court shall also order the convicted person to maintain contact with the probation service and may order the convicted person to perform one or more of the obligations provided for in paragraph 3 of Article 51 or Article 59 of this Code. The duration of an obligation provided for in of Article 59 shall not be less than six (6) months or more than

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- three (3) years. Paragraph 3 of Article 58 shall apply *mutatis mutandis* to an obligation ordered under this paragraph.
5. If the convicted person fails to perform the community service work the court may extend the duration of the supervision within the verification period or revoke the sentence.
 6. If, upon the expiry of the specified period, the convicted person has not performed the community service work or has only partially performed such community service work, the court shall order a term of imprisonment. One (1) day of imprisonment shall be ordered for every eight (8) working hours of community service that was not performed.

Article 61 **Semi-liberty**

1. When the court imposes a punishment of imprisonment of up to one (1) year, it may order the execution of the punishment in semi-liberty, due to the convicted person's obligations related to work, education or vocational training, essential family responsibilities, or need for medical or rehabilitation treatment.
2. When serving a punishment in semi-liberty, the convicted person is obliged to return to prison after performing his or her obligations outside the prison within the period of time determined by the court.
3. When the convicted person does not perform his or her obligations provided for in paragraph 1 of this Article, the court shall revoke the order for the execution of the punishment in semi-liberty and order that the remaining punishment be served in a prison.
4. When the court orders execution of the punishment in semi-liberty, it may also impose one or more of the conditions set out in paragraph 3 of Article 51 or Article 59 of this Code.

ACCESSORY PUNISHMENTS

Article 62 **Accessory punishments**

1. An accessory punishment may be imposed together with a principal or alternative punishment.
2. The accessory punishments are:
 - 2.1. deprivation of the right to be elected;
 - 2.2. order to pay compensation for loss or damage;
 - 2.3. prohibition on exercising public administration or public service functions;
 - 2.4. prohibition on exercising a profession, activity or duty;
 - 2.5. prohibition on driving a motor vehicle;
 - 2.6. confiscation of a driver license;
 - 2.7. confiscation;
 - 2.8. order to publish a judgment; and
 - 2.9. expulsion of a foreigner from the territory of the Republic of Kosovo.

3. The accessory punishment of a prohibition on driving a motor vehicle, or confiscation of an object may be imposed together with a suspended sentence, a judicial admonition or a waiver of punishment.

Article 63

Deprivation of right to be elected

The court shall deprive a perpetrator of the right to be elected for one (1) to four (4) years, if such person, with the intent of becoming elected, commits a criminal offence against voting rights or any other criminal offence for which a punishment of at least two (2) years imprisonment is provided.

Article 64

Order of restitution or compensation

1. The court, when sentencing a person who has been convicted of any offense involving the theft, loss, damage or destruction of property shall order that the perpetrator make restitution to the victim of the offense.
2. Restitution includes the costs equal to the value of any property stolen, lost, damaged or destroyed. Restitution shall also be ordered for any loss of income the victim experiences as a result of the offense and the related investigative and court proceedings.

Article 65

Prohibition on exercising public administration or public service functions

1. The court shall prohibit a perpetrator from exercising public administration or public service functions for one (1) to five (5) years after the punishment of imprisonment has been served, if such person has abused these functions and has been punished by imprisonment.
2. The court may prohibit a perpetrator from exercising public administration or public service functions for one (1) to three (3) years, if such person has abused these functions and has been punished by fine or suspended sentence.

Article 66

Prohibition on exercising a profession, activity or duty

1. The court may prohibit a perpetrator from exercising a profession, an independent activity, a management or administrative duty or duties related to the disposition, management or use of publicly owned property or the protection of such property, if such person has abused his or her position, activity or duty in order to commit a criminal offense or if there is reason to expect that the exercise of such profession, activity or duty can be misused to commit a criminal offense.
2. The court shall determine the duration of the punishment ordered pursuant to paragraph 1 of this Article, which shall not be less than one (1) year and shall not exceed five (5) years, starting from the day the decision of the court becomes final.

The period of time served in a prison or in a health care institution is not included in the duration of this punishment.

3. When imposing a suspended sentence, the court may decide that the suspended sentence will be revoked if the perpetrator does not comply with the prohibition on exercising a profession, activity or duty.

Article 67

Prohibition on driving motor vehicles

1. The court may prohibit a perpetrator who jeopardizes the safety of public traffic from driving a motor vehicle of a specific kind and category.
2. The court shall determine the duration of the punishment ordered pursuant to paragraph 1 of this Article, which shall not be less than one (1) year and shall not exceed five (5) years, starting from the day the decision of the court becomes final. The period of time served in a prison or in a health care institution is not included in the duration of this punishment.
3. When imposing a suspended sentence, the court may decide that such a suspended sentence will be revoked if the perpetrator violates the prohibition on driving the motor vehicle. This paragraph shall not apply if there are extra-ordinary circumstances which require the perpetrator to drive.
4. If the punishment provided for in paragraph 1 of this Article is imposed on a person who has a foreign license for driving a motor vehicle, the punishment shall prohibit the use of the foreign license within the territory of the Republic of Kosovo.

Article 68

Confiscation of driver's licenses

1. The court may confiscate a driver's license for a specific type and category of motor vehicle from a perpetrator who jeopardizes the safety of the public traffic and prohibit the perpetrator from obtaining a new driver's license for a period of one (1) to five (5) years. If the perpetrator does not have a driver's license, the court shall prohibit the perpetrator from obtaining a driver's license for a period of one (1) to five (5) years.
2. The court may impose the punishment provided for in paragraph 1 of this Article if the perpetrator has committed a criminal offense causing grievous bodily injury or death of a person or if the court establishes that driving in public traffic is dangerous to the safety of public traffic because of the perpetrator's inability to drive a motor vehicle safely.
3. The driving license shall be confiscated by a final decision of the court. The period of time served in a prison or in a health care institution shall not be included in the duration of the present punishment.
4. After the expiry of the period determined by the court, the perpetrator may obtain a new driving license according to the general conditions provided for obtaining the relevant driving license.

Article 69
Confiscation of objects

1. Objects used or destined for use in the commission of a criminal offense or objects derived from the commission of a criminal offense shall be confiscated.
2. Objects provided for in paragraph 1 of this Article may be confiscated even if they are not the property of the perpetrator if confiscation is necessary for the interests of general security or for moral reasons if such confiscation does not adversely affect the rights of third parties to obtain compensation from the perpetrator for any damage.
3. The law may provide for the mandatory confiscation of an object.

Article 70
Order to publish judgments

1. The court may order the publication of a judgment, if it determines that publication is in the interests of the public, the injured party or other persons.
2. An order to publish a judgment shall require that a judgment be published, in whole or in part, in a newspaper or a radio broadcast or television broadcast. The publication shall be at the expense of the perpetrator.
3. The date of the publication and its duration shall be determined by the court.
4. A newspaper, radio station or television station shall publish a judgment sent to them by the court.
5. The publication of the judgment shall not be ordered if such publication would endanger an official secret, the privacy of persons or the morals of society.

Article 71
Expulsion of foreigners from the territory of the Republic of Kosovo

1. The court may order the expulsion of a foreigner from the territory of the Republic of Kosovo for a period of one (1) to ten (10) years.
2. In determining whether to apply the punishment provided for in paragraph 1 of this Article and the duration of such punishment, the court shall take into account the type and the gravity of the criminal offense, the motives for committing the criminal offense and the perpetrator's attachment to the Republic of Kosovo.
3. The punishment provided for in paragraph 1 of this Article shall not be imposed if the execution of the punishment would be contrary to international law.
4. The duration of the expulsion shall start from the day the court decision becomes final. Time served in a prison or in a health care institution is not included in the duration of this punishment.

Article 72
Execution of accessory punishments

1. Subject to paragraph 2 of this Article, the execution of the accessory punishments provided for in Article 62 of this Code shall commence with the execution of a principal or alternative punishment.

2. The execution of the accessory punishments provided for in sub-paragraphs 2.1, 2.2, 2.3, 2.4, 2.5 and 2.8 of paragraph 2 of Article 62 of this Code shall commence after the term of imprisonment has been executed. While serving the punishment of imprisonment, the convicted person may not enjoy the rights limited by the accessory punishments.

CALCULATION OF PUNISHMENT

Article 73

General rules on calculating punishments

1. When determining the punishment of a criminal offense, the court must look to any minimum and maximum penalty applicable to the criminal offense. The court must then consider the purposes of punishment, the principles set out in this chapter and the mitigating or aggravating factors relating to the specific offense or punishment.
2. The punishment shall be proportionate to the gravity of the offense and the conduct and circumstances of the offender.
3. When determining the punishment the court shall consider but not be limited by following factors:
 - 3.1. the degree of criminal liability;
 - 3.2. the motives for committing the act;
 - 3.3. the intensity of danger or injury to the protected value;
 - 3.4. the circumstances in which the act was committed;
 - 3.5. the past conduct of the perpetrator;
 - 3.6. the entering of a guilty plea; and
 - 3.7. the personal circumstances of the perpetrator and his or her behavior after committing a criminal offense.
4. When determining the punishment for a recidivist, the court shall especially consider whether the perpetrator has previously committed a criminal offense of the same type as the new criminal offense, whether the two (2) acts were committed for the same motives, and the period of time that has elapsed since the previous conviction was pronounced or since the punishment was served or waived.
5. When determining the punishment of a fine, the court shall consider the material situation of the perpetrator, and, in particular, the amount of his or her personal income, other income, assets and obligations. The court shall not set the level of a fine above the means of the perpetrator.

Article 74

General rules on mitigation or aggravation of punishments

1. The punishment imposed on a perpetrator is the punishment prescribed for the criminal offense, while a more lenient or severe punishment may be imposed only in accordance with the conditions provided for by this Code.
2. When determining the punishment the court shall consider, but not be limited by, the following aggravating circumstances:

- 2.1. a high degree of participation of the convicted person in the criminal offense;
 - 2.2. a high degree of intention on the part of the convicted person, including any evidence of premeditation;
 - 2.3. the presence of actual or threatened violence in the commission of the criminal offense;
 - 2.4. whether the criminal offense was committed with particular cruelty;
 - 2.5. whether the criminal offense involved multiple victims;
 - 2.6. whether the victim of the criminal offense was particularly defenseless or vulnerable;
 - 2.7. the age of the victim, whether young or elderly;
 - 2.8. the extent of the damage caused by the convicted person, including death, permanent injury, the transmission of a disease to the victim, and any other harm caused to the victim and his or her family;
 - 2.9. any abuse of power or official capacity by the convicted person in the perpetration of the criminal offense;
 - 2.10. evidence of a breach of trust by the convicted person;
 - 2.11. whether the criminal offense was committed as part of the activities of an organized criminal group; and/or
 - 2.12. if the criminal offense is committed against a person, group of persons or property because of ethnicity or national origin, nationality, language, religious beliefs or lack of religious beliefs, color, gender, sexual orientation, or because of their affinity with persons who have the aforementioned characteristics;
 - 2.13. any relevant prior criminal convictions of the convicted person.
3. When determining the punishment the court shall consider, but not be limited by, the following mitigating circumstances:
- 3.1. circumstances falling short of grounds for exclusion of criminal responsibility, for example, diminished mental capacity;
 - 3.2. evidence of provocation by the victim;
 - 3.3. the personal circumstances and character of the convicted person;
 - 3.4. evidence that the convicted person played a relatively minor role in the criminal offense;
 - 3.5. the fact that the convicted person participated in the criminal offense not as the principal perpetrator but through aiding, abetting, or otherwise assisting another;
 - 3.6. the age of the convicted person, whether young or elderly;
 - 3.7. evidence that the convicted person made restitution or compensation to the victim;
 - 3.8. general cooperation by the convicted person with the court, including voluntary surrender;
 - 3.9. the voluntary cooperation of the convicted person in a criminal investigation or prosecution;
 - 3.10. the entering of a plea of guilty;
 - 3.11. any remorse shown by the convicted person;
 - 3.12. post conflict conduct of the convicted person; and/or

- 3.13. in the case of a person convicted of the criminal offense of Hostage Taking, Kidnapping or Unlawful Deprivation of Liberty or as provided for in Article 175, 194 or 196 of this Code, effectively contributing to releasing or bringing the kidnapped, abducted, taken or detained person forward alive or voluntarily providing information that contributes to identifying others responsible for the criminal offense.

Article 75

Mitigation of punishments

1. The court may impose a punishment below the limits provided for by law or impose a lesser type of punishment:
 - 1.1. when the law provides that the punishment of the perpetrator may be mitigated or reduced; or
 - 1.2. when the court finds that there are particularly mitigating circumstances which indicate that the purpose of punishment can be achieved by imposing a lesser punishment; or,
 - 1.3. in cases when the perpetrator pleads guilty or enters into a plea agreement. In such cases the court should take under consideration the opinion of the prosecutor, defense counsel and the injured party with regard to the mitigation of the punishment and it shall be advised but not constrained by the limits provided for in Article 76 of this Code.

Article 76

Limits on mitigation of punishments

1. When the conditions set out in Article 75 of this Code exist, the court may mitigate the punishment within the following limits:
 - 1.1. if a period of at least ten (10) years is provided as the minimum term of imprisonment for a criminal offense, the punishment can be mitigated to imprisonment of up to five (5) years;
 - 1.2. if a period of at least five (5) years is provided as the minimum term of imprisonment for a criminal offense, the punishment can be mitigated to imprisonment of up to three (3) years;
 - 1.3. if a period of at least three (3) years is provided as the minimum term of imprisonment for a criminal offense, the punishment can be mitigated to imprisonment of up to one (1) year;
 - 1.4. if a period of two (2) years is provided as the minimum term of imprisonment for a criminal offense, the punishment can be mitigated to imprisonment of up to six (6) months;
 - 1.5. if a period of one (1) year is provided as the minimum term of imprisonment for a criminal offense, the punishment can be mitigated to imprisonment of up to three (3) months;
 - 1.6. if a period of less than one (1) year is provided as the minimum term of imprisonment for a criminal offense, the punishment can be mitigated to imprisonment of up to thirty (30) days;

- 1.7. if there is no indication of the minimum term of imprisonment for a criminal offense, a punishment of a fine can be imposed instead of imprisonment;
 - 1.8. if there is no indication of the minimum amount of a fine for a criminal offense, the fine can be mitigated to one hundred (100) EUR.
2. In determining the degree of mitigation of punishment in accordance with paragraph 1 of this Article, the court shall take into special consideration the minimum and maximum term of punishment provided for the criminal offense.

Article 77

Waiver of punishments

1. The court may waive the punishment of the perpetrator for a criminal offense only when it is explicitly provided for by law.
2. When the court has been authorized by the law to waive the punishment of a perpetrator for a criminal offense, it may mitigate the punishment regardless of the limits on the mitigation of punishment.

Article 78

Special grounds to waive punishments for criminal offenses committed negligently

1. The court may waive the punishment of a perpetrator if he or she commits a criminal offense by negligence in the following cases:
 - 1.1. if the consequences of the criminal offense affect the perpetrator so severely that the punishment is unnecessary to achieve its purpose; or
 - 1.2. if immediately after the commission of a criminal offense the perpetrator makes efforts to eliminate or reduce the consequences of the offense and if he or she completely or substantially compensates for the damage caused by the offense.

Article 79

Aggravation of punishments for multiple recidivism

1. The court may impose a more severe punishment than the one provided for by law for a criminal offense punishable by imprisonment when it is committed intentionally in the following cases:
 - 1.1. if the perpetrator has been previously sentenced two (2) or more times to imprisonment of at least one (1) year for criminal offenses committed intentionally; and,
 - 1.2. if less than five (5) years have elapsed between the date of release or termination of the previous punishment and the commission of the new criminal offense.
2. The court may impose a more severe punishment by adding no more than an additional half of the maximum punishment to the punishment for the recidivist.
3. When determining whether to impose a more severe punishment, the court shall consider, in particular, the entering of a guilty plea, the similarity between the criminal offenses committed the motives for which they were committed, the

circumstances in which they were committed and also the need to impose such a punishment to fulfill the purpose of the punishment.

4. This Article shall not apply to the punishment of life long imprisonment.

Article 80

Punishment of concurrent criminal offenses

1. If a perpetrator, by one or more acts, commits several criminal offenses for which he or she is tried at the same time, the court shall first pronounce the punishment for each act and then impose an aggregate punishment for all of these acts.
2. The court shall impose an aggregate punishment in accordance with these rules:
 - 2.1. if the court has imposed a punishment of life long imprisonment for one of the criminal offenses, it shall impose this punishment only;
 - 2.2. if the court has imposed a punishment of imprisonment for each criminal offense, the aggregate punishment must be higher than each individual punishment but the aggregate punishment may not be as high as the sum of all prescribed punishments nor may it exceed a period of twenty five (25) years;
 - 2.3. if the court has imposed a punishment of imprisonment of up to three (3) years for each criminal offense, the aggregate punishment of imprisonment may not exceed eight (8) years;
 - 2.4. if the court has imposed a punishment of a fine for each criminal offense, the aggregate punishment of a fine is the total sum of all fines but it may not exceed the amount of twenty five thousand (25,000) EUR or, when one or more criminal offenses are committed with the intent to obtain a material benefit, the amount of five hundred thousand (500,000) EUR;
 - 2.5. if the court has imposed a punishment of imprisonment for some criminal offenses, while for others it has pronounced a punishment of a fine, the court will impose an aggregate punishment of a fine and imprisonment, in accordance with sub-paragraphs 2.1 to 2.4 of this paragraph.
3. The court shall impose an accessory punishment if it has been pronounced for at least one of the criminal offenses, in accordance with sub-paragraph 2.4 of paragraph 2 of this Article.

Article 81

Punishment of criminal offense in continuation

1. Criminal offense in continuation is constituted of several same or similar offenses committed in a certain time period by the same perpetrator, and that are considered as a whole due to the existence of at least two (2) of the following conditions:
 - 1.1. the same victim of the criminal offense;
 - 1.2. the same object of the offense;
 - 1.3. the taking advantage of the same situation or the same time relationship;
 - 1.4. the same place or space of commission of the criminal offense; or
 - 1.5. the same intent of the perpetrator.
2. Criminal offenses perpetrated against personality may be considered as criminal offenses in continuation only if they are committed against the same person.

3. Criminal offenses in continuation which, due to their nature cannot be joined in one offense, shall not be considered criminal offenses in continuation.
4. If the criminal offense in continuation includes both grievous and light form of the same offense, it is considered that the criminal offense in continuation has been committed in grave form.
5. If the criminal offense in continuation involves an element of a sum of money, the criminal offense in continuation shall be determined by the overall sum of all the individual offenses.
6. A criminal offense that was not included in the criminal offense in continuation with the final judgment of the court, but was discovered later, is considered as a separate criminal offense.

Article 82
Calculating punishment of convicted persons

1. If a convicted person is tried for a criminal offense he or she committed before serving a punishment imposed under an earlier conviction, or for a criminal offense committed while serving a punishment of imprisonment, the court shall impose an aggregate punishment (Article 80 of this Code), taking into consideration the previously imposed punishment. The punishment or part of the punishment which the convicted person has already served shall be included in the aggregate punishment.
2. For a criminal offense committed while serving a punishment of imprisonment, the court shall determine the punishment of the perpetrator independently of the previously imposed punishment if the application of the provisions of Article 80 of this Code would lead to a failure to achieve the aims of punishment considering the duration of the un-served portion of the previously imposed punishment.

Article 83
Calculating detention and previous punishment

1. Time served in detention, house arrest as well as any period of deprivation of liberty related to the criminal offense shall be included in the punishment of imprisonment and of a fine.
2. A punishment of imprisonment or of a fine for a minor offense or an economic offense which was served or paid by the convicted person shall be included in the punishment for a criminal offense whose elements include the elements of the minor offense or the economic violation.
3. A protective measure which has been imposed for a minor offense or an economic offense shall be included in the accessory punishment for a criminal offense whose elements include the elements of the minor offense or the economic violation.
4. One (1) day of detention, one (1) day of deprivation of liberty, one (1) day of imprisonment, and a fine of twenty (20) EUR are equal for the purposes of calculation under this Article.

Article 84

Calculating detention and punishments served in other jurisdictions

The detention, deprivation of liberty during proceedings to transfer a person to another jurisdiction and the portion of a punishment served by the perpetrator pursuant to a judgment of a foreign court shall be calculated toward the punishment imposed by a court in the Republic of Kosovo for that same act or, if the punishment imposed outside of the Republic of Kosovo is not of the same character, the court shall calculate the punishment in a way it deems appropriate.

CHAPTER IV JUDICIAL ADMONITION

Article 85

Purpose of judicial admonition

The purpose of a judicial admonition is to give a perpetrator a reprimand when, considering all the circumstances regarding the offense and the perpetrator, a judicial admonition is sufficient to achieve the purpose of a punishment.

Article 86

Judicial admonition

1. A perpetrator subject to a judicial admonition shall be informed that he or she has committed a harmful and dangerous act which constitutes a criminal offense and that if he or she commits such an act again, the court will impose a more severe criminal sanction.
2. A judicial admonition may be imposed for criminal offenses which are punishable by imprisonment of up to one (1) year or by a fine, when such offenses are committed under mitigating circumstances which render the offenses particularly minor.
3. A judicial admonition may also be imposed for certain criminal offenses punishable by imprisonment of up to three (3) years under the conditions provided for by law.
4. The court may impose a judicial admonition for more than one criminal offense committed concurrently, when each of the criminal offenses meet the conditions provided for in paragraph 2 or 3 of this Article.
5. When determining whether to impose a judicial admonition, the court shall consider, in particular, the purpose of a judicial admonition, the perpetrator's past conduct, his or her behavior after the commission of the criminal offense, the degree of criminal liability, other circumstances surrounding the criminal offense and the voluntary participation of the perpetrator in a treatment program.

CHAPTER V
MEASURES OF MANDATORY TREATMENT

Article 87
General principles

1. A perpetrator with a mental disorder, or a person who is being treated as such, shall be treated with humanity and respect for the inherent dignity of the human person.
2. International standards applicable to persons with a mental disorder shall apply to a perpetrator with a mental disorder to the fullest extent possible, with only limited modifications and exceptions that are necessary in the circumstances.
3. A measure of mandatory psychiatric treatment shall not be ordered when it is disproportionate to the gravity of the acts committed, the acts expected to be committed by the perpetrator and the degree of danger that the perpetrator poses.

Article 88
Applicable measures and criminal sanctions

1. The measures of mandatory treatments that may be imposed on a perpetrator who is not criminally liable, has substantially diminished mental capacity or is addicted to drugs or alcohol are:
 - 1.1. mandatory psychiatric treatment and custody in a health care institution;
 - 1.2. mandatory psychiatric treatment at liberty; and
 - 1.3. mandatory rehabilitation treatment of persons addicted to drugs or alcohol.
2. A criminal sanction, in accordance with this Code, may also be imposed on a perpetrator who has committed a criminal offense in a state of diminished mental capacity, if the grounds for imposing such a criminal sanction exist.

Article 89
Mandatory psychiatric treatment in custody in a health care institution

1. The court may impose a measure of mandatory psychiatric treatment in custody in a health care institution on a perpetrator who has committed a criminal offense while in a state of mental incompetence or substantially diminished mental capacity, if it determines that:
 - 1.1. the perpetrator committed an offense punishable by imprisonment of at least three (3) years;
 - 1.2. there is a serious danger that the perpetrator will commit another criminal offense;
 - 1.3. the mandatory psychiatric treatment in custody is necessary to avoid the commission of another criminal offense;
 - 1.4. the perpetrator is unable to stand trial; and
 - 1.5. the mandatory psychiatric treatment in custody is necessary to avoid a serious danger.
2. The court shall suspend the measure of mandatory psychiatric treatment provided

for in paragraph 1 of this Article upon verification that the need for the treatment in a health care institution has ceased.

3. The time spent in a health care institution will count towards the term of the imposed punishment for the mandatory psychiatric treatment for the perpetrator who commits a criminal offense in a state of substantially diminished mental capacity and who was punished by imprisonment. If the time in custody for mandatory psychiatric treatment is less than the sentence of imprisonment, the court may order that the perpetrator be sent to prison to serve the remainder of the sentence or the court may order conditional release.
4. When considering conditional release under paragraph 3 of this Article, the court, in addition to the conditions set forth in Article 94 of this Code, shall give special consideration to the success of the mandatory treatment of the perpetrator, his or her health, the time spent in the health care institution and the length of the sentence that has not been served.

Article 90 **Mandatory psychiatric treatment at liberty**

1. The court may impose a measure of mandatory psychiatric treatment at liberty on a perpetrator who has committed a criminal offense while in a state of mental incompetence or substantially diminished mental capacity, if it determines that:
 - 1.1. there is a serious danger that the perpetrator will commit a criminal offense;
 - 1.2. the mandatory psychiatric treatment at liberty is necessary to avoid the commission of another criminal offense; and
 - 1.3. mandatory psychiatric treatment at liberty is sufficient to avoid serious danger.
2. The measures of mandatory psychiatric treatment at liberty from paragraph 1 of this Article may be imposed on a perpetrator upon whom a measure of mandatory psychiatric treatment in custody in a health care institution was imposed when the court verifies that the custody in the health care institution is no longer necessary and the measures of mandatory psychiatric treatment at liberty are sufficient to address the considerations set forth in sub-paragraphs 1.1 to 1.3 of paragraph 1 of this Article.
3. Subject to the conditions set forth in paragraph 1 of this Article, the court may impose mandatory psychiatric treatment at liberty on a perpetrator whose mental capacity is substantially diminished and who is on conditional release as provided for in Article 94 of this Code.
4. The mandatory psychiatric treatment at liberty may not exceed three (3) years if it imposed on a perpetrator who has substantially diminished mental capacity.
5. The court may impose mandatory psychiatric treatment in custody in a health care institution:
 - 5.1. when the perpetrator fails to undergo the mandatory psychiatric treatment at liberty as set forth in paragraphs 1 to 3 of this Article;
 - 5.2. when the perpetrator abandons the mandatory psychiatric treatment at liberty; or
 - 5.3. when, in spite of the mandatory psychiatric treatment in custody in a health

care institution, there is a serious danger that the perpetrator will again commit a criminal offense.

Article 91

Mandatory rehabilitation treatment of persons addicted to drugs or alcohol

1. The court may order a measure of mandatory rehabilitation treatment in a health care institution for any perpetrator who has committed a criminal offense under the influence of drugs or alcohol if both of the following conditions are met:
 - 1.1. the court has imposed a punishment, a judicial admonition or a waiver of punishment on the perpetrator; and
 - 1.2. the court determines that the primary factor motivating the criminal offense was related to perpetrator's addiction to drugs or alcohol and there are prospects for successful treatment.
2. If the measure referred to in paragraph 1 of this Article is imposed in addition to the punishment of a fine, a judicial admonition or a waiver of punishment, the court may, with the consent of the perpetrator, decide that such measure be executed at liberty. If the perpetrator fails to undergo the treatment at liberty without a justifiable cause or if he or she arbitrarily quits the treatment, the court may order that the treatment be executed in a health care institution.
3. If the measure referred to in paragraph 1 of this Article is imposed in addition to the punishment of a fine, a judicial admonition, or a waiver of punishment, the treatment may not last for more than two (2) years.
4. If the measure referred to in paragraph 1 of this Article is imposed in addition to the punishment of imprisonment, it may last until the punishment is served. The time spent in the health care institution shall be calculated towards the imposed punishment.
5. The court must examine the execution of this measure every two (2) months to determine whether it is necessary to continue the measure.

CHAPTER VI

GENERAL PROVISIONS ON THE EXECUTION OF PUNISHMENTS AND CONDITIONAL RELEASE

Article 92

Execution of punishments of imprisonment and life long imprisonment

1. The punishment of imprisonment or life long imprisonment shall be served in confined, semi-confined or open correctional facilities or units of correctional facilities.
2. The punishment of life long imprisonment shall commence in confined correctional facilities or units of correctional facilities.
3. During the execution of a punishment, the convicted person shall not be subjected to inhuman or degrading treatment or punishment, including unnecessary mental and physical exertion or the deprivation of adequate medical treatment or other basic necessities.

Article 93
Limitation on restriction of rights of convicted persons

1. The rights of a convicted person shall always be respected during the execution of a punishment.
2. The rights of a convicted person may only be limited to the extent necessary and in compliance with the law and international human rights standards.

Article 94
Conditional release

1. A convicted person may be granted conditional release in accordance with this Code and the Law on the Execution of Penal Sanctions if there are reasonable grounds to expect that he or she will not commit a new criminal offense. The conduct of the convicted person while serving his or her punishment shall be taken into consideration when deciding whether or not conditional release is granted.
2. A person convicted of a criminal offence for which a punishment of at least five (5) years imprisonment has been provided, may be granted conditional release after serving two-thirds (2/3) of the imposed sentence. For other criminal offences, the convicted person may be granted conditional release after having served half of the imposed sentence.
3. A convicted person who has served forty (40) years of a sentence of life long imprisonment may be granted conditional release on the condition that he or she does not commit another criminal offense. The minimum period of supervision by the Probation Service shall be at least five (5) years.
4. Conditional release shall be decided by the Conditional Release Panel established by Kosovo Judicial Council in accordance with the Law on the Execution of Penal Sanctions.

Article 95
Revocation of conditional release

1. The court shall revoke conditional release if a convicted person, while on conditional release, commits one or more criminal offenses for which a punishment of imprisonment of more than one (1) year was imposed.
2. The court may revoke conditional release if a convicted person, while on conditional release, commits one or more criminal offenses for which a punishment of imprisonment of up to one (1) year was imposed. In determining whether to revoke conditional release, the court shall consider, in particular, the similarity of criminal offenses committed, the motives for committing the criminal offenses and other circumstances that indicate the appropriateness of revoking conditional release.
3. When the court revokes conditional release, it shall impose a punishment on the basis of the provisions from Articles 80 and paragraph 2 of Article 82 of this Code, treating the previously imposed punishment as determined. The portion of the previously imposed punishment which has been served by the convicted person

following the previous sentence shall be calculated in the new punishment, whereas the time on conditional release shall not be calculated. The court judgment shall state that conditional release has been revoked. The court shall send a copy of the judgment to the Conditional Release Panel.

4. The provisions of paragraphs 1 to 3 of this Article shall apply also when a convicted person released on conditional release is punished for a criminal offense committed prior to his or her release on conditional release.
5. If the convicted person released on conditional release is sentenced to imprisonment for a term not exceeding one (1) year and if the court does not order the revocation of conditional release, the term of the release on conditional release shall be extended for the period of time the convicted person spent serving such sentence of imprisonment.

CHAPTER VII CONFISCATION OF MATERIAL BENEFITS ACQUIRED BY THE COMMISSION OF CRIMINAL OFFENSES

Article 96 Grounds for confiscating material benefits

1. No person may retain a material benefit acquired by the criminal offense.
2. The material benefit provided for in paragraph 1 of this Article shall be confiscated by the court establishing the criminal offense, according to the terms provided for by law.

Article 97 Conditions and means of confiscating material benefits

1. Material benefits shall be confiscated from the perpetrator or when confiscation is not possible, the perpetrator shall be obliged to pay an amount of money corresponding to the material benefit acquired.
2. Material Benefits may be confiscated from the person to whom it has been transferred without compensation or with compensation that does not correspond to the real value, if such person knew or should have known that the material benefit was acquired by the commission of a criminal offense. When the material benefit has been transferred to a member of the family the benefits shall be confiscated from the member of the family unless such member of the family proves that he or she gave compensation for the entire value.

Article 98 Protection of injured parties

1. If property damages have been awarded to an injured party in criminal proceedings, the court shall order confiscation of the material benefit if it exceeds the amount of the property damages awarded to the injured party.
2. An injured party who, in the course of criminal proceedings has been instructed to

initiate civil litigation with respect to his or her property claim, can request compensation from the confiscated material benefit. The injured party seeking compensation from the confiscated material benefit must commence civil litigation within six (6) months from the day of the final decision instructing him or her to initiate civil litigation and within three (3) months from the day of the final court decision establishing his or her property claim.

3. An injured party who fails to report a property claim during the course of criminal proceedings may demand compensation from the confiscated material benefit if he or she has initiated civil litigation within three (3) months from the day when he or she found out about the judgment confiscating the material benefit and no longer than two (2) years from the day the judgment on the confiscation of the material benefit became final and if he or she demanded compensation from the confiscated material benefit within three (3) months from the day when the decision establishing his or her property claim became final.

Article 99

Confiscating material benefits from legal persons

When a business organization or legal person has acquired a material benefit by the commission of a criminal offense of a perpetrator, such material benefit shall be confiscated from the business organization or the legal person.

CHAPTER VIII

LEGAL CONSEQUENCES OF PUNISHMENT

Article 100

Creation of the legal consequences of the punishment

1. Legal consequences of punishment may be foreseen only by law.
2. Legal consequences of the punishment cannot be created where a fine, suspended sentence or judicial admonition is imposed on the perpetrator or when the perpetrator is exempt from punishment.
3. Punishments for certain criminal offenses may have as a consequence cessation, loss of certain rights or prohibition of acquiring certain rights.

Article 101

Commencement and duration of legal consequences of the punishment

1. Legal consequences of the punishment commence on the day when the court judgment becomes final.
2. Legal consequences of the punishment that are composed of the prohibition of acquiring certain rights may not be extended for more than ten (10) years from the day when the punishment was served, pardoned, or where the statute of limitation has elapsed, if for certain legal consequences the law does not prescribe shorter duration.
3. When the punishment is expunged the legal consequences of the punishment cease to exist.

CHAPTER IX
REHABILITATION AND DISCLOSURE OF INFORMATION
FROM CRIMINAL RECORDS

Article 102

Legal status of convicted persons after service, waiver or prescription

1. After a punishment of imprisonment has been served, subject to pardon or prescribed by statutory limitation, a convicted person who has made restitution shall exercise and acquire all the rights provided for in the Constitution and law unless otherwise provided in this Code.
2. This Article shall also apply to a convicted person released on conditional release.

Article 103

Legal rehabilitation

1. Upon legal rehabilitation, a punishment shall be expunged from the record of a first time convicted person as provided in paragraph 2 of this Article and such person shall not be considered convicted.
2. A punishment shall be expunged from the record of the first time convicted person upon the expiry of the following periods of time, by operation of law, if the convicted person does not commit a new criminal offense within this period:
 - 2.1. one (1) year from the day the judgment becomes final, in the case of a judicial admonition or a waiver of punishment;
 - 2.2. one (1) year from the day the verification period expires, in the case of a suspended sentence;
 - 2.3. one (1) year from the day a punishment is served, prescribed by statutory limitation or terminated by a pardon or a change in the law, in the case of a punishment of semi-liberty;
 - 2.4. three (3) years from the day a punishment is served, prescribed by statutory limitation or terminated by a pardon or a change in the law, in the case of a punishment of imprisonment of up to one (1) year, a punishment of a fine or an accessory punishment;
 - 2.5. five (5) years from the day a punishment is served, prescribed by statutory limitation or terminated by a pardon or a change in the law, in the case of a punishment of imprisonment of one (1) to three (3) years;
 - 2.6. eight (8) years from the day a punishment is served, prescribed by statutory limitation or terminated by a pardon or a change in the law, in the case of a punishment of imprisonment of three (3) to five (5) years;
 - 2.7. ten (10) years from the day a punishment is served, prescribed by statutory limitation or terminated by a pardon or a change in the law, in the case of a punishment of imprisonment of five (5) to ten (10) years;
 - 2.8. fifteen (15) years from the day a punishment is served, prescribed by statutory limitation or terminated by pardon or a change in the law, in the case of a punishment of imprisonment of ten (10) to fifteen (15) years;
3. A punishment of imprisonment of more than fifteen (15) years or life long imprisonment shall not be expunged.

4. A punishment shall not be expunged during the duration of accessory punishments and measures of mandatory treatment.

Article 104 **Judicial rehabilitation**

The court may, upon the request of the convicted person, decide to expunge a punishment from its records and consider the person not convicted if one-half of the relevant period of time provided for in paragraph 2 of Article 103 of this Code has elapsed and if the convicted person has not committed a new criminal offense during that time. When deciding to expunge a punishment, prescribed by statutory limitation or terminated by pardon or a change in the Criminal Code, the court shall consider the conduct of the convicted person after serving the punishment, the nature of the criminal offense and other circumstances that may be important for evaluating the appropriateness of expunging the punishment.

Article 105 **The content and disclosure of information from criminal records**

1. A criminal record shall contain the following information: personal data on the perpetrator of a criminal offense; information on the punishment, judicial admonition, measure of mandatory treatment or waiver of punishment imposed on the perpetrator; changes in information on convictions that were entered in the criminal record; and, information on sentences served and on the expunging of wrongful convictions.
2. Information contained in a criminal record may be disclosed only with respect to convictions that have not been expunged and may be disclosed to the court, the prosecutor and the police in connection with criminal proceedings conducted against the person who had previously been convicted; to competent authorities in charge of the execution of criminal sanctions; and, to competent authorities involved in the procedure of granting pardon or expunging of sentences.
3. The data from the criminal record may be revealed to public entities upon a justified request provided that the accessory punishment or mandatory treatment is in force at the time of the request.
4. In cases where a conviction has been expunged, information on the conviction may only be revealed to the court, the prosecutor and the police in relation to criminal proceedings conducted against a person whose previous conviction has been expunged.
5. Any person, upon request, may obtain information on his or her criminal record when this information is necessary except where this would jeopardize national security or public safety or the prevention, investigation, detection and prosecution of criminal offenses.

**CHAPTER X
STATUTORY LIMITATION**

**Article 106
Statutory limitation on criminal prosecution**

1. Unless otherwise expressly provided by this Code, the criminal prosecution may not be initiated after the following periods have elapsed.
 - 1.1. thirty (30) years from the commission of a criminal offense punishable by life long imprisonment;
 - 1.2. twenty (20) years from the commission of a criminal offense punishable by imprisonment of more than ten (10) years;
 - 1.3. ten (10) years from the commission of a criminal offense punishable by imprisonment of more than five (5) years;
 - 1.4. five (5) years from the commission of a criminal offense punishable by imprisonment of more than three (3) years.
 - 1.5. three (3) years from the commission of a criminal offense punishable by imprisonment of more than one (1) year; and
 - 1.6. two (2) years from the commission of a criminal offense punishable by imprisonment up to one (1) year or punishment of a fine.
2. When the law provides for more than one punishment for a criminal offense, the period of limitation shall be determined according to the most serious punishment.

**Article 107
Commencement and stay of statutory limitation on criminal prosecution**

1. The period of statutory limitation on criminal prosecution commences on the day when the criminal offense was committed. If a result constituting an element of the offense occurs later, the period of limitation shall commence to run from that time.
2. In the case of an offense committed against a person under the age of eighteen (18), the limitation period shall commence to run on the day the victim reaches the age of eighteen (18) years.
3. The period of statutory limitation shall not run for any time during which prosecution cannot be initiated or continued by law, including, but not limited to the following circumstances:
 - 3.1. when the perpetrator is outside of the Republic of Kosovo and this causes a delay of proceedings;
 - 3.2. when the perpetrator is wanted by arrest warrant;
 - 3.3. when the Chief State Prosecutor, in accordance with the Code of Criminal Procedure, seeks to obtain evidence from outside of the Republic of Kosovo; or
 - 3.4. during the guilty plea procedure.
4. The period of statutory limitation shall not be tolled if the offense is not prosecuted because of the absence of a request or authorization to prosecute or a request to prosecute by a foreign state.
5. The period of statutory limitation is interrupted by every act undertaken for the purpose of criminal prosecution of the criminal offense committed.

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6. The period of statutory limitation is also interrupted if the perpetrator commits another criminal offense of equal or greater gravity than the previous criminal offense prior to the expiry of the period of statutory limitation.
7. A new period of statutory limitation will commence after each interruption.
8. Criminal prosecution shall be prohibited in every case when twice the period of statutory limitation has elapsed.

Article 108

Statutory limitation on the execution of punishments

1. Unless otherwise provided for by this Code, the imposed punishment cannot be executed after the following periods have elapsed:
 - 1.1. thirty (30) years from a sentence of life long imprisonment;
 - 1.2. twenty (20) years from a sentence of imprisonment of more than ten (10) years;
 - 1.3. ten (10) years from a sentence of imprisonment of more than five (5) years;
 - 1.4. five (5) years from a sentence of imprisonment of more than three (3) years;
 - 1.5. three (3) years from a sentence of imprisonment of more than one (1) year; and
 - 1.6. two (2) years from a sentence of imprisonment up to one (1) year or punishment of a fine.
2. The statutory limitations on the execution of punishments shall be tolled when the convicted person fails to appear for or fails to surrender to serve a sentence of imprisonment.

Article 109

Statutory limitation on the execution of accessory punishments and of measures of mandatory treatment

1. The execution of other accessory punishments shall be prohibited after five (5) years from the day when the judgment imposing this punishment becomes final.
2. The execution of a measure of mandatory treatment shall be prohibited after three (3) years from the day when the judgment imposing this measure becomes final.
3. The statutory limitations on the execution of accessory punishments and the execution of a measure of mandatory treatment shall be tolled when the person fails to comply with court orders pertaining to the accessory punishments and measure of mandatory treatment.

Article 110

Commencement and interruption of periods of statutory limitation on the execution of punishments

1. The period of statutory limitation on the execution of a punishment commences on the day when the judgment becomes final and, in the case of a revocation of an alternative punishment, on the day when the decision on revocation becomes final.
2. The period of statutory limitation does not run for any time during which the execution of the punishment may not be initiated by law.

3. If the punishment is reduced by the act of a pardon or a decision of the court upon extraordinary legal remedy, the time for commencement of statutory limitation is determined according to the new punishment, while the time of calculation of the statutory limitation is based on the original punishment.
4. The period of statutory limitation is interrupted by every act undertaken by a competent authority for the purpose of executing the punishment.
5. A new period of statutory limitation will commence after each interruption.
6. The execution of a punishment shall be prohibited in every case when twice the period of statutory limitation has elapsed
7. The provisions of paragraphs 2 to 5 of this Article shall also apply to the statutory limitations on the execution of accessory punishments and measures of mandatory treatment.

Article 111

Non-applicability of statutory limitation for crimes against international law and aggravated murder

1. No statutory limitation shall apply to the offenses of genocide, war crimes, crimes against humanity, or other criminal offenses to which the statutory limitation cannot be applied under international law.
2. No statutory limitation shall apply to the offense of aggravated murder.

CHAPTER XI PARDON

Article 112 Pardon

1. By means of a pardon and in accordance with the Law on Pardon specifically designated persons listed by name are granted exemption from complete or partial exemption from the execution of a punishment, the substitution of punishment with a less severe punishment or a suspended sentence or the expunging of punishment.
2. A perpetrator cannot be pardoned for any punishment for which the Conditional Release Panel has refused that person conditional release.

Article 113 Effect of pardon on third parties

The granting of pardon shall not affect the rights of third parties which are based upon the punishment or judgment.

CHAPTER XII
APPLICABILITY OF CRIMINAL LAWS OF THE REPUBLIC OF KOSOVO
ACCORDING TO THE PLACE OF THE COMMISSION OF THE CRIMINAL
OFFENSE

Article 114

Applicability of criminal laws of the Republic of Kosovo on the territory of the Republic of Kosovo

1. The criminal laws of the Republic of Kosovo apply to any person who commits a criminal offense wholly or partly on the territory of the Republic of Kosovo.
2. The criminal laws of the Republic of Kosovo apply to any person who commits a criminal offense on any means of air or water transport which is registered in the Republic of Kosovo, regardless of the location of the air or water transport at the time the criminal offense was committed.

Article 115

Applicability of criminal laws of the Republic of Kosovo to specific criminal offenses committed outside the territory of the Republic of Kosovo

1. The criminal laws of the Republic of Kosovo apply to any person who commits the following criminal offenses outside the territory of the Republic of Kosovo;
 - 1.1. the criminal offenses provided for in Articles 148-153, 157-160, 164, 165, 166-169, 171, 173-175, 238, 241, 273-280, 293, 294, 302-304, 336 and 337 of this Code: and,
 - 1.2. criminal offenses which on the basis of an international agreement binding on the Republic of Kosovo must be prosecuted even though committed abroad.
2. The criminal laws of the Republic of Kosovo apply to any person who commits a criminal offense provided for in Articles 136-145 of this Code outside the territory of the Republic of Kosovo where such offense constitutes a threat to the security of the Republic of Kosovo or its population, in whole or in part.
3. The criminal laws of Kosovo apply to any person who is a national of the Republic of Kosovo if such person commits a criminal offence outside the territory of the Republic of Kosovo and if this act is also punishable at the place of its commission.
4. Paragraph 1 of this Article shall also apply to any person who, subsequent to the commission of a criminal offence, becomes a resident of the Republic of Kosovo.

Article 116

Applicability of criminal laws of the Republic of Kosovo to foreign person committing criminal offenses outside the territory of the Republic of Kosovo

1. The criminal laws of the Republic of Kosovo apply to any person who is a foreign person if:
 - 1.1. such person has committed a criminal offense outside the territory of the

Republic of Kosovo against a national of the Republic of Kosovo even when such a criminal offense is not referred to in Article 115 of this Code;

- 1.2. this act is also punishable at the place of its commission; and
- 1.3. the perpetrator is found on the territory of the Republic of Kosovo or has been transferred to the Republic of Kosovo.

Article 117

Special prerequisites for prosecution of criminal offenses committed outside the territory of the Republic of Kosovo

1. In the cases provided for in Article 114 of this Code, if criminal proceedings have commenced but have not been completed in another jurisdiction, criminal proceedings shall be initiated in the Republic of Kosovo only upon the authorization of the Chief State Prosecutor of the Republic of Kosovo.
2. In the cases provided for in Articles 115 and 116 of this Code, criminal proceedings shall not be initiated if:
 - 2.1. the perpetrator has completely served the punishment imposed in another jurisdiction;
 - 2.2. the perpetrator has been acquitted in another jurisdiction by a final court judgment or the punishment was waived or prescribed by statutory limitation; or
 - 2.3. criminal proceedings for that criminal offense in another jurisdiction may only be initiated upon request of the injured party and such request has not been presented.
3. Criminal proceedings pursuant to Article 118 of this Code may be initiated in the Republic of Kosovo only upon the authorization of the Chief State Prosecutor of the Republic of Kosovo.
4. In the cases provided for in Article 114 of this Code the criminal prosecution of a foreign person may be transferred to a foreign jurisdiction on the condition of reciprocity.

Article 118

Special provisions for children

The present Code shall apply to persons under the age of eighteen (18) years to the extent that the applicable law on Juvenile Justice Code does not provide otherwise.

Article 119

Special provisions for legal persons

The criminal offenses for which a legal person may be criminally liable, the criminal liability of a legal person, the criminal sanctions which may be applied to a legal person and special provisions governing criminal procedures applicable to a legal person shall be provided for by this Code or separate law.

CHAPTER XIII MEANING OF TERMS IN THE CRIMINAL CODE

Article 120 Definitions

For the purpose of this Code the terms below have the following meanings:

1. **Person** - legal persons and natural persons;
2. **Official person:**
 - 2.1. a person elected or appointed to a State body;
 - 2.2. an authorized person in a state body, business organization or other legal person, who by law or by other provision issued in accordance with the law, exercises public authority; or,
 - 2.3. a person who exercises specific official duties, based on authorization provided for by law.
3. **Foreign official person or foreign public official:**
 - 3.1. any person holding a legislative, executive, administrative or judicial office of a foreign State, whether appointed or elected;
 - 3.2. any arbitrator exercising functions under the national law on arbitration of a foreign State;
 - 3.3. any person exercising a public function for a foreign State, including for a public agency or public enterprise;
 - 3.4. any official, employee or representative of a public international organization and their bodies;
 - 3.5. any member of international parliamentary assembly; and
 - 3.6. any judge, prosecutor or official of international court or tribunal which exercises its jurisdiction over the Republic of Kosovo.
4. **Person under international protection or internationally protected person:**
 - 4.1. a Head of State, including any associated staff, who exercises the function of Head of State in accordance with the Constitution of that State;
 - 4.2. the Prime Minister and the Minister of Foreign Affairs whenever they are on duty outside of their State, as well as the members of their families;
 - 4.3. any senior official or State representative or a senior official, or other representative of international organization if at the time and place, a criminal offense was committed against such person or such person's officially marked or posted premises, private apartment or office, or transport means if, according to international law, such person is entitled to special protection from attack on his or her person, freedom and dignity. The person under international protection shall also include accompanying family members.
5. **Responsible person** - a natural person within the legal person, who is entrusted to perform certain tasks, or who is authorized to act on behalf of the legal person and there exists high probability that he/she is authorized to act on behalf of the legal person.
6. **Legal Person** - a legal or foreign legal person, who according to the Republic of Kosovo legislation is considered as a legal person.

7. **Business organization** - any natural or legal person or group of such persons who are engaged in economic activity and defined and regulated by the Law on Business Organizations.
8. **Document** - any paper or other object suitable or designed to serve as evidence of some fact relevant to legal relations.
9. **Money** - the currency that by law is in circulation in the Republic of Kosovo or another jurisdiction.
10. **Symbols of value** - include foreign symbols of value.
11. **Movable object** - energy produced or collected for lighting, heating, and circulating as well as telephone impulse and other impulses.
12. **Group of people** – three (3) or more persons
13. **Organized criminal group** - a structured association, established over a period of time, of three or more persons for the commission of a certain criminal offense that acts in concert with the aim of committing one or more serious criminal offenses in order to obtain, directly or indirectly, a financial or other material benefit.
14. **Structured association** - an association that is not randomly formed for the immediate commission of an offense, but it does not need to have formally defined roles for its members, continuity of its membership, or a developed structure.
15. **Force** - the implementation of hypnosis or other means of intoxication for the purpose of bringing a person against his or her will into a state of unconsciousness or incapacitating him or her for resistance.
16. **Motor vehicle** - any means of transportation equipped with an engine for use on the street, in or on the water or for air transportation.
17. **KFOR** - the international military presence established pursuant to Security Council resolution 1244 (1999) in the Republic of Kosovo composed by the North Atlantic Treaty Organization, including its member States, its subsidiary bodies, its military Headquarters and national elements or units, and non-NATO contributing countries.
18. **Police** - the Republic of Kosovo Police, Customs and the EULEX Police.
 - 18.1. Customs - Customs Officer as set forth by the Customs Code.
19. **National of the Republic of Kosovo** - a person provided for in the Constitution and Law on Citizenship.
20. **Child** - a person who is under the age of eighteen (18) years.
21. **Minor** - a person who is between the ages of fourteen (14) and eighteen (18) years.
22. **Adult** - a person who has reached the age of eighteen (18) years.
23. **Domestic relationship** - the relationship between two (2) persons:
 - 23.1. who are engaged or married to each other or are co-habiting with each other without marriage;
 - 23.2. who share a primary household in common and who are related by blood, marriage, or adoption or are in a guardian relationship, including parents, grandparents, children, grandchildren, siblings, aunts, uncles, nieces, nephews, cousins; or
 - 23.3. who are the parents of a common child.
24. **Extramarital Community** - a relationship as defined by the Law on Family.
25. **Territory of the Republic of Kosovo** - the land surface and water space within its borders and boundaries, as well as the air space above the Republic of Kosovo.

26. **Boundary of the Republic of Kosovo** - the line of division between the territory of the Republic of Kosovo and the territories of its neighboring countries.
27. **State border** - the land, water and air border including airports that are handling international traffic.
28. **Damage** - any loss up to five thousand (5,000) EUR.
29. **Considerable damage or considerable loss** - any loss of more than five thousand (5,000) EUR up to fifteen thousand (15,000) EUR.
30. **Grave damage, substantial damage, or substantial loss** - any loss of more than fifteen thousand (15,000) EUR up to fifty thousand (50,000) EUR.
31. **Large scale damage, large scale destruction or large scale loss** - any loss of more than fifty thousand (50,000) EUR.
32. **Dangerous instrument** - any object made or used to inflict bodily injury on a person or to threaten to cause injury to a person.”
33. **Member of the family** - a spouse, parent, adoptive parent, child, adoptive child, sibling, blood relative living in the same home or a person with whom the perpetrator lives in an extra-marital communion.
34. **Material benefit** - any property derived directly or indirectly from a criminal offense. Property derived indirectly from a criminal offense includes property into which any property directly derived from the criminal offense was later converted, transformed, or intermingled, as well as income, capital or other economic gains derived or realized for such property at any time since the commission of the criminal offense.
35. **Narcotic drug paraphernalia** - any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a drug. It includes, but is not limited to, items such as metal, wooden, glass, stone, plastic, or ceramic pipes with or without the screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; bongos; wired cigarette papers, or cocaine freebase kits.
36. **Preparation of criminal offense** - supplying or making available for the perpetrators the means to commit a criminal offense, removing the impediments to the commission of a criminal offense, agreeing, planning or organizing with other persons the commission of a criminal offense, any other activities that create conditions for the direct committal of a criminal offense, but which do not constitute the act itself.
37. **Vulnerable victim** - a child, a physically or mentally handicapped person, a person suffering from diminished capacity, a pregnant woman, or a domestic partner.
38. **Weapon** - any object or device manufactured in the way that under pressure of gasses, which are released during the burning of explosive, electricity, materials, compressed gas or other potential energy, expels projectiles in the form of a bullet, shotgun shells, gas, liquid, arrows or other components, which is designed or used for inflicting bodily harm or physical damage or used to damage, even psychologically, and also any other object which main purpose is carrying out a physical attack towards physical integrity of people or property. “Weapon” also includes ammunition, weapons parts and components as well as nuclear, biological and chemical weapons. The following are weapons:

- 38.1. firearms;
- 38.2. collection arms;
- 38.3. pneumatic (air) arms;
- 38.4. arms for the use of dispersing irritating gas;
- 38.5. explosive weapons;
- 38.6. sinew backed weapons;
- 38.7. cold weapons;
- 38.8. weapons for light-acoustic signalization;
- 38.9. electro shock weapons;
- 38.10. directed-energy weapons.

The following are not considered weapons for the purpose of this Code:

- 38.11. arms for industrial purposes;
- 38.12. decorative weapons;
- 38.13. imitations of weapons;
- 38.14. firearms rendered permanently unfit for use (de-activated) by the application of technical procedures which are guaranteed by the competent body or recognized by the competent body;
- 38.15. harpoons for under water fishing.

CHAPTER XIV CRIMINAL OFFENSES AGAINST THE CONSTITUTIONAL ORDER AND SECURITY OF THE REPUBLIC OF KOSOVO

Article 121

Assault on constitutional order of the Republic of Kosovo

1. Whoever attempts, by the use of violence or threat of violence, to change the established constitutional order of the Republic of Kosovo or to overthrow the highest institutions of the Republic of Kosovo shall be punished by imprisonment of not less than five (5) years.
2. Whoever by use of violence or threat of violence attempts to obstruct the establishment of the constitutional order of the Republic of Kosovo or by the use of violence or threat of violence implements foreign legal order in any part of the Republic of Kosovo, shall be punished by imprisonment of not less than five (5) years.
3. Whoever attempts, by use of violence or threat of violence, to endanger the independence of Kosovo, its sovereignty and territorial integrity, its territorial entirety or its democracy, shall be punished by imprisonment of not less than ten (10) years.

Article 122

Armed rebellion

1. Whoever takes part in an armed rebellion that is aimed against the constitutional order, security or territorial integrity of the Republic of Kosovo, shall be punished by imprisonment of not less than five (5) years.

Criminal laws

2. An organizer of an armed rebellion described in paragraph 1. of this Article shall be punished by imprisonment of not less than ten (10) years imprisonment.

Article 123

Acceptance of capitulation and occupation

Whoever, who signs or accepts capitulation or approves the occupation of the Republic of Kosovo or any part of it, shall be punished by imprisonment of ten (10) years or life long imprisonment.

Article 124

Treason against State

1. Whoever in the capacity of the President of the Republic of Kosovo signs the acceptance of occupation or the act of capitulation of State shall be punished by imprisonment of not less than fifteen (15) years or life long imprisonment.
2. Whoever in the capacity of the President of the Republic of Kosovo signs an international agreement or any act which gives a part of the territory of the Republic of Kosovo to another State or leaves parts of the territory of the Republic of Kosovo under the sovereignty of another State, shall be punished by imprisonment of at least fifteen (15) years or life long imprisonment.
3. Whoever in the capacity of the President of the Republic of Kosovo abandons the country during time of war or emergency situation, thereby leaving the armed forces without a chain of command, shall be punished by imprisonment of at least fifteen (15) years or life long imprisonment

Article 125

Endangering the territorial integrity of the Republic of Kosovo

Whoever by the use of violence or threat of violence attempts to detach a part of the territory of the Republic of Kosovo or to join a part of the territory to another state, shall be punished by imprisonment of not less than five (5) years.

Article 126

Murder of high representatives of the Republic of Kosovo

1. Whoever with the aim of endangering the constitutional order or security of the Republic of the Republic of Kosovo deprives one of the following persons of life shall be punished by imprisonment at least ten (10) years or life long imprisonment.
 - 1.1. The President of the Republic of Kosovo;
 - 1.2. The President of the Assembly of the Republic of Kosovo;
 - 1.3. The Prime Minister of the Republic of Kosovo;
 - 1.4. The President of the Constitutional Court of the Republic of Kosovo;
 - 1.5. The President of the Supreme Court of the Republic of Kosovo; or,
 - 1.6. The Chief State Prosecutor of the Republic of Kosovo.

Article 127

Abduction of the high representatives of the Republic of Kosovo

Whoever, with the aim of endangering the constitutional order or security of the Republic of Kosovo, abducts one or more persons listed in Article 126 of this Code shall be punished by imprisonment of not less than five (5) years.

Article 128

Violence against high representatives of the Republic of Kosovo

Whoever, with the aim of endangering the constitutional order or security of the Republic of Kosovo by use of violence or threat of violence, obstructs one or more of the persons listed in Article 126 of this Code from carrying out their official functions or forces them to act or to omit an act from their scope of function, shall be punished by imprisonment of three (3) to ten (10) years.

Article 129

Endangering the constitutional order by destroying or damaging public installations and facilities

Whoever with the aim of endangering of the constitutional order or security of the Republic of Kosovo, incinerates or in any other way destroys or damages an industrial, agricultural site, or any other economic site, traffic system, telecommunication links, equipment for public use of water, heating, gas or energy, dams, depots, or any other building of importance for security, supply of citizens, economy or functioning of public services, shall be punished by imprisonment of not less than three (3) years.

Article 130

Sabotage

Whoever, with the aim of endangering of the constitutional order or security of the Republic of Kosovo, fails to carry out an official function in a responsible manner or, whoever, during the exercise of an official function damages the means of production; causes the destruction or damage of installations or buildings; causes the destruction or damage of large quantities of products, goods or materials; or, causes interruptions in the process of production and the cost of the damage or destruction exceeds fifty thousand (50,000) EUR shall be punished by imprisonment of not less than three (3) years.

Article 131

Espionage

1. Whoever communicates, hands over a State secret or makes a State secret accessible to a foreign country, foreign organization or to the person serving them shall be punished from imprisonment of five (5) to twelve (12) years.
2. Whoever creates an intelligence service in the Republic of Kosovo for a foreign

- State, country or organization or directs such service shall be punished by imprisonment of not less than ten (10) years.
3. Whoever enters a foreign intelligence service, collects data for them or in any other way supports the work of such service shall be punished by imprisonment at least five (5) years.
 4. Whoever collects classified data or documents with the aim of communicating and handing them over to a foreign State, country, foreign organization or to the person serving them, shall be punished by imprisonment of three (3) to ten (10) years.
 5. If the commission of the criminal offense in paragraph 1, 2, 3. or 4 of this Article caused severe consequences for the security, economic or military power of the Republic of Kosovo, the perpetrator shall punished by imprisonment of at least ten (10) years.
 6. If the criminal offense listed in paragraph 1, 2, 3 or 4 of this Article is committed during the time of war, imminent danger of war, armed conflict or the revealing of a state secret concerns the security of the Republic of Kosovo, the perpetrator shall be punished by imprisonment of not less than ten (10) years.
 7. For the purposes of this Article, “State secret” means the military, economic, or official information, data or documents that by law or other provisions or decisions of a competent body and issued pursuant to the law that are pronounced as classified information.

Article 132

Disclosure of classified information and failure to protect classified information

Whoever discloses or fails to protect classified information shall be punished as set forth in the Law on the Classification of Information and Security Clearances.

Article 133

Aggravated offenses against the constitutional order or security of the Republic of Kosovo

1. The perpetrator of a criminal offense set forth in Articles 121-134 of this Code shall be punished by imprisonment of not less than ten (10) years or life long imprisonment if the commission of the offense:
 - 1.1. results in death of one or more persons;
 - 1.2. the life of one or more persons was endangered;
 - 1.3. the offense was accompanied by severe violence or large scale destruction;or
 - 1.4. the offense endangered the economic and military security of the Republic of Kosovo.
2. If, during the criminal offense listed in paragraph 1 of this Article, the perpetrator has intentionally deprived one or more persons of life, the perpetrator shall be punished by imprisonment of not less than ten (10) years or life long imprisonment.
3. Whoever commits a criminal offense listed in paragraph 1 of this Article in the time of war, imminent danger of war, armed conflict or during a state of

emergency shall be punished by imprisonment of at least ten (10) years or life long imprisonment.

Article 134

Alliance for anti-constitutional actions

1. Whoever forms a group or any other alliance of persons for the commission of any criminal offense in Articles 121-134 of this Code shall be punished with the punishment prescribed for that offense.
2. Whoever participates in or becomes a member of the group or alliance from paragraph 1 of this Article shall be punished by imprisonment from one (1) to five (5) years.
3. A member of the group or alliance, who reports the group before the commission of the criminal offense from paragraph 1 of this Article shall be punished up to three (3) years of imprisonment or the punishment may be waived.

Article 135

Definitions for terrorism provisions in articles 121-145

For the purposes of Articles 121-145 of this Code terms used below shall have the following meaning:

1. **Terrorism, act of terrorism or terrorist offense** - the commission of one or more of the following criminal offenses with an intent to seriously intimidate a population, to unduly compel a public entity, government or international organization to do or abstain from doing any act, or to seriously destabilize or destroy the fundamental political, constitutional, economic or social structures of the Republic of Kosovo, another State or an international organization:
 - 1.1. murder or Aggravated murder in violation of Articles 178 and 179 of this Code;
 - 1.2. inciting or assisting suicide in violation of Article 183 of this Code;
 - 1.3. assault, Assault with Light Bodily Injury and Assault with Grievous Bodily Injury in violation of Articles 187-189 of this Code;
 - 1.4. sexual offenses in violation of Articles 230-232, 235-239 or 241 of this Code;
 - 1.5. hostage-Taking, Kidnapping or Unlawful Deprivation of Liberty in violation of Articles 175, 194 or 196 of this Code;
 - 1.6. pollution of drinking water or, food products; or pollution or destruction of the environment in violation of Article 270 and Chapter 27 of this Code;
 - 1.7. causing general danger, arson or reckless burning or exploding in violation of Articles 334 or 365 of this Code;
 - 1.8. destroying, damaging or removing public installations or endangering public traffic in violation of Articles 129, 366, 378 or 380 of this Code;
 - 1.9. unauthorized supply, transport, production, exchange or sale of weapons, explosives or nuclear, biological or chemical weapons in violation of Articles 176, 369 or 372-377 of this Code;
 - 1.10. unauthorized acquisition, ownership, control, possession or use of weapons,

- explosives, or nuclear, biological or chemical weapons, or research into or development of biological or chemical weapons in violation of Articles 176, 369 or 372-377 of this Code;
- 1.11. endangering internationally protected persons in violation of Article 173 of this Code;
 - 1.12. endangering United Nations and associated personnel in violation of Article 174 of this Code;
 - 1.13. hijacking aircraft or unlawful seizure of aircraft in violation of Article 164 of this Code, or hijacking other means of public or goods transportation;
 - 1.14. endangering civil aviation safety in violation of Article 165 of this Code;
 - 1.15. hijacking ships or endangering maritime navigation safety in violation of Article 166 of this Code;
 - 1.16. endangering the safety of fixed platforms located on the continental shelf in violation of Article 167 of this Code;
 - 1.17. un-authorized appropriation, use, transfer or disposal of nuclear materials in violation of Article 176 of this Code;
 - 1.18. threats to use or to commit theft or robbery of nuclear materials in violation of Article 177 of this Code; or
 - 1.19. threatening to commit any of the acts listed in sub-paragraphs 1.1 to 1.18 of this paragraph.
2. **Funds** - includes assets of any kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evincing title to or interest in such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts, and letters of credit;
 3. **Material resources** - includes, but is not limited to, lodging, safe houses, false documentation or identification, financial services, facilities, personnel, weapons, means of transportation, communications equipment and other physical assets, except necessary medicine.
 4. **Terrorist group** - a structured group of more than two persons, established over a period of time and acting in concert to commit terrorism. A structured group is a group that is not randomly formed for the immediate commission of an offense and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

Article 136 **Commission of the offense of terrorism**

1. Whoever commits an act of terrorism shall be punished by imprisonment of not less than five (5) years.
2. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury of one or more persons, the perpetrator shall be punished by imprisonment of not less than ten (10) years.
3. When the offense provided for in paragraph 1 of this Article results in death of one or more persons, the perpetrator shall be punished by imprisonment of not less than fifteen (15) years or life long imprisonment.

Article 137

Assistance in the commission of terrorism

1. When the offense provided for in Article 385 or 386 of this Code is committed in relation to terrorism, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
2. When the offense provided for in Article 388 of this Code is committed in relation to terrorism, the perpetrator shall be punished by imprisonment of three (3) to ten (10) years.
3. Whoever assists the perpetrator or his or her accomplice, after the commission of an act of terrorism, by providing funds or other material resources to such persons shall be punished by imprisonment of three (3) to ten (10) years.

Article 138

Facilitation of the commission of terrorism

1. Whoever by any means directly or indirectly provides, solicits, collects or conceals funds or material resources with the intent, knowledge or reasonable grounds for belief that they will be used in whole or in part, for or by a terrorist group or for the commission of a terrorist act shall be punished by imprisonment of five (5) to fifteen (15) years.
2. Whoever assists the perpetrator or his or her accomplice, after the commission of an act of terrorism, by providing funds or other material resources to such person or persons shall be punished by imprisonment of three (3) to ten (10) years.

Article 139

Recruitment for terrorism

Whoever solicits another person to commit or participate in the commission of a terrorist offense, to participate in the activities of a terrorist group or to provide funds or material resources shall be punished by imprisonment of five (5) to fifteen (15) years.

Article 140

Training for terrorism

1. Whoever provides or receives training for terrorism shall be punished by imprisonment of five (5) to fifteen (15) years.
2. For the purpose of this Article “training for terrorism” means training or instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of carrying out or contributing to the commission of a terrorist offense, knowing that the skills provided are intended to be used for this purpose.

Article 141
Incitement to commit a terrorist offense

Whoever distributes, or otherwise makes available, a message to the public, with the intent to incite the commission of a terrorist offense, where such conduct, whether or not directly advocating terrorist offenses, causes a danger that one or more such offenses may be committed, shall be punished by imprisonment of one (1) to five (5) years.

Article 142
Concealment or failure to report terrorists and terrorist groups

1. Whoever conceals the existence of a terrorist group or its participants or obstructs the discovery or apprehension of a terrorist group or its participants shall be punished by imprisonment of three (3) to ten (10) years.
2. When the offense provided for in Articles 385 or 386 of this Code is committed in relation to terrorism, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
3. When the offense provided for in Article 388 of this Code is committed in relation to terrorism, the perpetrator shall be punished by imprisonment of three (3) to ten (10) years.

Article 143
Organization and participation in a terrorist group

1. Whoever organizes or directs a terrorist group shall be punished by a fine of up to five hundred thousand (500,000) EUR and by imprisonment of ten (10) to twenty (20) years.
2. Whoever participates in the activities of a terrorist group shall be punished by imprisonment of five (5) to ten (10) years.

Article 144
Preparation of terrorist offenses or criminal offenses against the constitutional order and security of the Republic of Kosovo

1. Whoever prepares for the commission of criminal offenses in Articles 135-142 of this Code shall be punished by imprisonment from one (1) to five (5) years.
2. For the purposes of this Article “preparation of criminal offense” includes supplying or making available for the perpetrators the means to commit a criminal offense, removing the impediments to the commission of a criminal offense, agreeing, planning or organizing with other persons the commission of a criminal offense, any other activities that create conditions for the direct committal of a criminal offense, but which do not constitute the act itself.
3. Whoever sends or carries into or out of the territory of the Republic of Kosovo weapons, explosives, poison, supplies, ammunition or other material for the commission of one or more criminal offenses in this chapter, shall be punished by imprisonment from five (5) to fifteen (15) years.

4. Whoever, for the purpose of committing one or more acts of terrorist offenses in this Chapter, dispatches or transfers armed groups, equipment, or other material resources into or out of the Republic of Kosovo shall be punished by imprisonment of ten (10) to twenty (20) years.

Article 145

Irrelevance of the commission of a terrorist offense

For an act to constitute an offense as set forth in Articles 135-144 of this Chapter, it is not necessary that a terrorist offense actually be committed

Article 146

Unauthorized border or boundary crossings

1. Whoever crosses a border or boundary of the Republic of Kosovo at any location other than at an authorized border or boundary crossing point shall be punished by a fine of two hundred fifty (250) EUR or by imprisonment of up to six (6) months.
2. When the offense provided for in paragraph 1. of this Article is committed by a perpetrator who is accompanied by a child or another person, the perpetrator shall be punished by a fine of up to two thousand five hundred (2,500) EUR or by imprisonment of up to one (1) year.
3. When the offense provided for in paragraph 1 of this Article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of six (6) months to three (3) years:
 - 3.1. the perpetrator was previously convicted of a criminal offense provided for in this Article;
 - 3.2. during the course of apprehension, the perpetrator flees, attempts to flee, or otherwise resists apprehension by the police or KFOR;
 - 3.3. the crossing is undertaken between the hours of 8:00 in the evening to 6:00 in the morning during the period from 1 April to 30 September, or between the hours of 6:00 in the evening to 6:00 in the morning during the period from 1 October to 31 March; or
 - 3.4. the perpetrator is in possession of a weapon, ammunition or military clothing, supplies or equipment.
4. An attempt to commit the offense provided for in paragraphs 1 or 2 of this Article shall be punishable.
5. A person is not criminally liable under this Article for crossing at an unauthorized border or boundary crossing point if the crossing occurred at a checkpoint that was temporarily established by COMKFOR.
6. No criminal proceedings involving the offense provided for in this Article shall be initiated or continued against any bona fide refugee or internally displaced person coming from a territory where his or her life or body or fundamental freedoms or rights are threatened, provided that he or she has presented himself or herself to the police or KFOR within a reasonable time and shows good cause for crossing at an unauthorized border or boundary crossing point.

Article 147

Inciting national, racial, religious or ethnic hatred, discord or intolerance

1. Whoever publicly incites or publicly spreads hatred, discord or intolerance between national, racial, religious, ethnic or other such groups living in the Republic of Kosovo in a manner which is likely to disturb public order shall be punished by a fine or by imprisonment of up to five (5) years.
2. Whoever commits the offense provided for in paragraph 1 of this Article in a systematic manner or by taking advantage of his or her position or authority or causes disorder, violence, or other grave consequences by the commission of such offense shall be punished by imprisonment from one (1) to eight (8) years.
3. Whoever commits the offense provided for in paragraph 1 of this Article by means of coercion, jeopardizing safety, exposing national, racial, ethnic or religious symbols to derision, damaging the belongings of another person, or desecrating monuments or graves shall be punished by imprisonment of one (1) to eight (8) years.
4. Whoever commits the offense provided for in paragraph 3 of this Article in a systematic manner or by taking advantage of his or her position or authority or causes disorder, violence or other grave consequences by the commission of such offense shall be punished by imprisonment of two (2) to ten (10) years.

CHAPTER XV

**CRIMINAL OFFENSES AGAINST HUMANITY AND VALUES PROTECTED
BY INTERNATIONAL LAW**

Article 148

Genocide

1. Whoever with the intent to destroy in whole or in part a national, ethnical, racial or religious group commits one or more of the following acts, shall be punished by imprisonment of at least fifteen (15) years or by life long imprisonment:
 - 1.1. killing members of the group;
 - 1.2. causing serious bodily or mental harm to members of the group;
 - 1.3. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
 - 1.4. imposing measures intended to prevent births within the group;
 - 1.5. forcibly transferring children of the group to another group.

Article 149

Crimes against humanity

1. Whoever commits one or more of the following offenses knowing such offense is part of a widespread or systematic attack directed against any civilian population, shall be punished by imprisonment of at least fifteen (15) years or by life long imprisonment:
 - 1.1. murder;

- 1.2. extermination;
 - 1.3. enslavement;
 - 1.4. deportation or forcible transfer of population;
 - 1.5. imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
 - 1.6. torture;
 - 1.7. rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
 - 1.8. persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognized as impermissible under international law, in connection with the offenses provided for in this Article and Articles 148 and 150-153 of this Code;
 - 1.9. enforced disappearance of persons;
 - 1.10. the crime of apartheid; or
 - 1.11. other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.
2. For the purposes of this Article terms used below shall have the following meaning:
- 2.1. **Attack directed against any civilian population** - a course of conduct involving the multiple commission of offenses provided for in paragraph 1 of this Article against any civilian population, pursuant to or in furtherance of a state or organizational policy to commit such attack;
 - 2.2. **Extermination** - the intentional infliction of conditions of life, inter alia, the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
 - 2.3. **Enslavement** - the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
 - 2.4. **Deportation or forcible transfer of population** - forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
 - 2.5. **Torture** - the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the perpetrator; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
 - 2.6. **Forced pregnancy** - the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law;
 - 2.7. **Persecution** - the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
 - 2.8. **Crime of apartheid** - inhumane acts of a character similar to those provided for in paragraph 1 of this Article, committed in the context of an institutionalized regime of systematic oppression and domination by one

- racial group over any other racial group or groups and committed with the intention of maintaining that regime;
- 2.9. **Enforced disappearance of persons** - the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a state or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time;
- 2.10. **Gender** - refers to the two (2) sexes, male and female, within the context of society.

Article 150 **War crimes in grave violation of the Geneva conventions**

1. Whoever commits a grave violation of the Geneva Conventions of 12 August 1949 shall be punished by:
 - 1.1. imprisonment of not less than ten (10) years or by life long imprisonment, in the case of the offense provided for in sub-paragraphs 2.4, 2.5, 2.6, 2.7 or 2.8 of paragraph 2 of this Article; or
 - 1.2. imprisonment of not less than fifteen (15) years or by life long imprisonment, in the case of the offense provided for in sub-paragraphs 2.1, 2.2, or 2.3 of paragraph 2 of this Article.
2. A grave violation of the Geneva Conventions of 12 August 1949 means one or more of the following acts committed during war time or armed conflict against persons or property protected under the provisions of the relevant Geneva Convention:
 - 2.1. willful killing;
 - 2.2. torture or inhuman treatment, including biological experiments;
 - 2.3. willfully causing great suffering or serious injury to body or health, rape and sexual harassment;
 - 2.4. extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and willfully;
 - 2.5. compelling a prisoner of war or other protected person to serve in the forces of an my power;
 - 2.6. willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
 - 2.7. unlawful deportation or transfer or unlawful confinement; and
 - 2.8. taking of hostages.

Article 151 **War crimes in serious violation of laws and customs applicable in international armed conflict**

1. Whoever commits a serious violation of the laws and customs applicable in international armed conflicts, within the established framework of international law, shall be punished by:

- 1.1. imprisonment of not less than five (5) years or by life long imprisonment, in the case of the offense provided for in sub-paragraph 2.9, 2.13, 2.14, 2.15, 2.16, 2.26, 2.29, 2.30 or 2.31 of paragraph 2 of this Article; or
- 1.2. imprisonment of not less than ten (10) years or by life long imprisonment, in the case of the offense provided for in subparagraphs 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.10, 2.11, 2.12, 2.17, 2.18, 2.19, 2.20, 2.21, 2.22, 2.23, 2.24, 2.25, 2.27 or 2.28 of paragraph 2 of this Article.
2. A serious violation of the laws and customs applicable in international armed conflict, within the established framework of international law, means one or more of the following acts:
 - 2.1. intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in conflict;
 - 2.2. intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
 - 2.3. intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
 - 2.4. intentionally launching an attack in the knowledge that such attack will cause loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
 - 2.5. attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
 - 2.6. killing or wounding a combatant who, having laid down his or her arms or having no further means of defense, has surrendered and seeks mercy;
 - 2.7. making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
 - 2.8. the transfer, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
 - 2.9. intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
 - 2.10. subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her or her interest, and which cause death to or seriously endanger the health of such person or persons;
 - 2.11. killing or treacherously wounding individuals belonging to the enemy nation or army;

Criminal laws

- 2.12. declaring that no quarter will be given;
- 2.13. destroying or seizing the enemy's property unless such destruction or seizure is absolutely required by the necessities of war;
- 2.14. declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the enemy party;
- 2.15. compelling the nationals of the enemy party to take part in the operations of war directed against their own country, even if they were in the opposition's service before the commencement of the war;
- 2.16. pillaging a town or place, even when taken by assault;
- 2.17. employing poison or poisoned weapons;
- 2.18. employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- 2.19. employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
- 2.20. employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, including chemical weapons, biological weapons, non-detectable fragments, blinding laser weapons or booby traps as defined in Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects of 10 October 1980;
- 2.21. committing outrages upon personal dignity, in particular humiliating and degrading treatment;
- 2.22. committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave violation of the Geneva Conventions;
- 2.23. utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
- 2.24. intentionally directing attacks against buildings, material, medical units and transport, religious personnel and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- 2.25. intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions;
- 2.26. conscripting or enlisting children under the age of fifteen (15) years into the national armed forces or using them to participate actively in hostilities;
- 2.27. intentionally launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects;
- 2.28. intentionally launching an indiscriminate attack where such attack is not directed at a specific military objective, employs a method or means of combat which cannot be directed at a specific military objective or employs a method or means of combat the effects of which cannot be limited as required by Protocol I Additional to the Geneva Convention of 12 August

1949 and consequently, is of a nature to strike military objectives and civilians or civilian objects without distinction;

- 2.29. enslavement and slave trade;
- 2.30. imposing collective punishments;
- 2.31. pressuring the population of an occupied territory to change their nationality or to take an oath to an enemy power.

Article 152

War crimes in serious violation of Article 3 common to the Geneva conventions

1. Whoever commits a serious violation of Article 3 common to the four Geneva Conventions of 12 August 1949 shall be punished by imprisonment of not less than five (5) years or by life long imprisonment.
2. A serious violation of Article 3 common to the four Geneva Conventions of 12 August 1949 means one or more of the following acts committed in the context of an armed conflict not of an international character against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:
 - 2.1. violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
 - 2.2. committing outrages upon personal dignity, in particular humiliating and degrading treatment;
 - 2.3. taking of hostages;
 - 2.4. the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.
3. This Article shall apply to armed conflicts not of an international character and does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

Article 153

War crimes in serious violation of laws and customs applicable in armed conflict not of an international character

1. Whoever commits a serious violation of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, shall be punished by:
 - 1.1. imprisonment of not less than five (5) years or by life long imprisonment, in the case of the offense provided for in subparagraphs 2.4, 2.5, 2.7, 2.12, 2.23 or 2.24 of paragraph 2 of this Article;
 - 1.2. imprisonment of not less than ten (10) years or by life long imprisonment, in the case of the offenses provided for in subparagraphs 2.1, 2.2, 2.3, 2.6, 2.8, 2.9, 2.10, 2.11, 2.13, 2.14, 2.15, 2.16, 2.17, 2.18, 2.19, 2.20, 2.21 or 2.22 of paragraph 2 of this Article.
2. A serious violation of the laws and customs applicable in armed conflicts not of an

international character, within the established framework of international law, means one or more of the following acts:

- 2.1. intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- 2.2. intentionally directing attacks against buildings, material, medical units and transport, religious personnel and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- 2.3. intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- 2.4. intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- 2.5. pillaging a town or place, even when taken by assault;
- 2.6. committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and any other form of sexual violence also constituting a serious violation of Article 3 common to the four Geneva Conventions;
- 2.7. conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
- 2.8. ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
- 2.9. killing or treacherously wounding a combatant adversary;
- 2.10. declaring that no quarter will be given;
- 2.11. subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her or her interest, and which cause death to or seriously endanger the health of such person or persons;
- 2.12. destroying or seizing the property of an adversary unless such destruction or seizure is absolutely required by the necessities of the conflict;
- 2.13. attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
- 2.14. intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
- 2.15. intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
- 2.16. intentionally launching an indiscriminate attack where such attack is not directed at a specific military objective, employs a method or means of

- combat which cannot be directed at a specific military objective or employs a method or means of combat the effects of which cannot be limited and consequently, is of a nature to strike military objectives and civilians or civilian objects without distinction;
- 2.17. utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
 - 2.18. intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions;
 - 2.19. employing poison or poisoned weapons;
 - 2.20. employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
 - 2.21. employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
 - 2.22. employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, including chemical weapons, biological weapons, non-detectable fragments, blinding laser weapons, booby traps as defined in Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects of 10 October 1980;
 - 2.23. enslavement and slave trade;
 - 2.24. imposing collective punishments.
3. This Article applies to armed conflicts not of an international character and does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a state when there is protracted armed conflict between the organs of authority and organized armed groups or between such groups.

Article 154

Attacks in armed conflicts not of an international character against installations containing dangerous forces

Whoever, in violation of the laws and customs applicable in armed conflicts not of an international character, intentionally launches an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects shall be punished by imprisonment of not less than ten (10) years or by lifelong imprisonment.

Article 155

Conscription or enlisting of persons between the age of fifteen (15) and eighteen (18) years in armed conflict

Whoever conscripts or enlists persons between the age of fifteen (15) and eighteen (18) years into armed forces or groups or uses them to participate actively in hostilities in an armed conflict of an international nature or an armed conflict not of an international character shall be punished by imprisonment of one (1) to ten (10) years.

Article 156

Employment of prohibited means or methods of warfare

1. Whoever during war or armed conflict employs weapons, projectiles and material and methods of warfare which are not provided for in sub-paragraph 2.20 of Article 151 or with sub-paragraph 2.22 of Article 153 of this Code but which are in violation of the international law of armed conflict shall be punished by imprisonment of not less than five (5) years.
2. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of not less than ten (10) years or by life long imprisonment.

Article 157

Unjustified delay in repatriating prisoners of war or civilians

Whoever, in violation of the rules of international law, orders or imposes an unjustified delay in repatriating prisoners of war or civilians after the termination of a war or armed conflict shall be punished by imprisonment of six (6) months to five (5) years.

Article 158

Unlawful appropriation of objects from the killed or wounded on the battlefield

1. Whoever orders the unlawful appropriation of the belongings of the deceased or wounded on the battlefield or carries out such appropriation shall be punished by imprisonment of six (6) months to five (5) years.
2. When the offense provided for in paragraph 1. of this Article is committed in a barbaric manner, the perpetrator shall be punished by imprisonment of one (1) to ten (10) years.

Article 159

Endangering negotiators

Whoever, in violation of international law, in a time of war or armed conflict, insults, mistreats or restrains a negotiator or his or her escort, prevents their return, or in some other way violates their inviolability shall be punished by imprisonment of six (6) months to five (5).

Article 160

Organization of groups to commit genocide, crimes against humanity and war crimes

1. Whoever organizes a group for the purpose of committing any of the criminal offenses provided for in Articles 148-156 of this Code shall be punished by imprisonment of one (1) to ten (10) years.
2. Whoever becomes a member of a group provided for in paragraph 1. of this Article shall be punished by imprisonment of one (1) to five (5) years.
3. A member of a group provided for in paragraph 1 of this Article who reports the group before he or she has committed a criminal offense shall be punished by imprisonment of up to three (3) years, or the punishment may be waived.

Article 161

Responsibility of commanders and other leaders

1. A military commander or person effectively acting as a military commander shall be criminally liable for the criminal offenses referred to in Articles 148-156 of this Code committed by forces under his or her effective command and control, or effective authority and control, as a result of his or her failure to exercise control properly over such forces, where:
 - 1.1. that military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such criminal offenses; and
 - 1.2. that military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.
2. With respect to superior and subordinate relationships not described in paragraph 1 of this Article, a superior shall be criminally liable for the criminal offenses referred to in Articles 148-159 of this Code committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:
 - 2.1. the superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;
 - 2.2. the criminal offenses concerned activities that were within the effective responsibility and control of the superior; and
 - 2.3. the superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

Article 162

Instigating war of aggression or armed conflict

Whoever publicly calls for or instigates a war of aggression or an armed conflict, in a meeting or by means of publications, audio-visual recordings or any other means, shall be punished by imprisonment of one (1) to five (5) years.

Article 163
Misuse of international emblems

Whoever misuses or carries without authorization the flag or emblem of the United Nations or a Red Cross or Red Crescent Society or symbols corresponding to them or any other international emblem recognized as protecting certain objects from military operations shall be punished by imprisonment of up to three (3) years.

Article 164
Hijacking aircraft

1. Whoever, in violation of the Convention for the Suppression of Unlawful Seizure of Aircraft of 16 December 1970, on board an aircraft in flight, unlawfully seizes or exercises control of the aircraft, by force or threat thereof or by any other form of intimidation, shall be punished by imprisonment of two (2) to ten (10) years.
2. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons or the destruction of the aircraft, the perpetrator shall be punished by imprisonment of not less than five (5) years.
3. Whoever intentionally deprives another person of his or her life in committing the offense provided for in paragraph 1 of this Article shall be punished by imprisonment of not less than ten (10) years or by life long imprisonment.

Article 165
Endangering civil aviation safety

1. Whoever, in violation of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 23 September 1971, commits an act endangering the safety of civil aviation shall be punished by imprisonment of one (1) to ten (10) years.
2. An act endangering the safety of civil aviation means one or more of the following acts:
 - 2.1. performing an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft;
 - 2.2. destroying an aircraft in service or causing damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;
 - 2.3. placing or causing to be placed on an aircraft in service, by any means, a device or substance which is likely to destroy that aircraft, or to cause damage to the aircraft which renders it incapable of flight, or to cause damage to the aircraft which is likely to endanger its safety in flight;
 - 2.4. destroying or damaging air navigation facilities or interfering with their operation, if any such act is likely to endanger the safety of aircraft in flight;
 - 2.5. communicating information which the perpetrator knows to be false, thereby endangering the safety of an aircraft in flight;
 - 2.6. performing an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death;

- 2.7. destroying or seriously damaging the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupting the services of the airport, if such an act endangers or is likely to endanger safety at that airport.
3. Whoever operates an aircraft in an irregular manner or fails to discharge duties or supervision in relation to the safety of civil aviation shall be punished by imprisonment of one (1) to ten (10) years.
4. When the offense provided for in paragraph 1. or 3. of this Article results in the death of one or more persons or the destruction of the aircraft, the perpetrator shall be punished by imprisonment of not less than ten (10) years.
5. Whoever intentionally deprives another person of his or her life in committing the offense provided for in paragraph 1 or 3 of this Article shall be punished by imprisonment of not less than ten (10) years or by life long imprisonment.
6. Whoever commits the offense provided for in paragraph 1 or 3 of this Article by negligence shall be punished by imprisonment of up to five (5) years.
7. When the offense provided for in paragraph 6. of this Article results in the death of one or more persons or the destruction of the aircraft, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 166 **Endangering maritime navigation safety**

1. Whoever, in violation of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of 10 March 1988, commits an act endangering the safety of maritime navigation shall be punished by imprisonment of one (1) to ten (10) years.
2. An act endangering the safety of maritime navigation means one or more of the following acts:
 - 2.1. seizing or exercising control over a ship by force or threat thereof or any other form of intimidation;
 - 2.2. performing an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;
 - 2.3. destroying a ship or causing damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;
 - 2.4. placing or causing to be placed on a ship, by any means, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;
 - 2.5. destroying or seriously damaging maritime navigational facilities or seriously interfering with their operation, if any such act is likely to endanger the safe navigation of a ship;
 - 2.6. communicating information which the perpetrator knows to be false, thereby endangering the safe navigation of a ship.
3. When the offense provided for in paragraph 1. of this Article results in the death of one or more persons or the destruction of the ship, the perpetrator shall be punished by imprisonment of not less than ten (10) years.

4. Whoever intentionally deprives another person of his or her life in committing the offense provided for in paragraph 1. of this Article shall be punished by not less than ten (10) years or of life long imprisonment.
5. Whoever commits the offense provided for in paragraph 1. of this Article by negligence shall be punished by imprisonment of up to five (5) years.
6. When the offense provided for in paragraph 5. of this Article results in the death of one or more persons or the destruction of the ship, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 167

Endangering the safety of fixed platforms located on the continental shelf

1. Whoever, in violation of the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf of 10 March 1988, commits an act endangering the safety of a fixed platform located on the continental shelf shall be punished by imprisonment of one (1) to ten (10) years.
2. An act endangering the safety of a fixed platform located on the continental shelf means one or more of the following acts:
 - 2.1. seizing or exercising control over a fixed platform by force or threat thereof or any other form of intimidation;
 - 2.2. performing an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;
 - 2.3. destroying a fixed platform or causing damage to it which is likely to endanger its safety;
 - 2.4. placing or causing to be placed on a fixed platform, by any means, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety.
3. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons or the destruction of a fixed platform, the perpetrator shall be punished by imprisonment of not less than ten (10) years.
4. Whoever intentionally deprives another person of his or her life in committing the offense provided for in paragraph 1 of this Article shall be punished by not less than ten (10) years or of life long imprisonment.
5. When the offense provided for in paragraph 5. of this Article results in the death of one or more persons or the destruction of a fixed platform, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
6. Whoever, with the intent to compel a natural or legal person to do or abstain from doing any act, threatens to commit an offense provided for in sub-paragraph 2.2. and 2.3. of paragraph 2 of this Article shall be punished by imprisonment of one (1) to eight (8) years.
7. For the purposes of this Article, the term "fixed platform" means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

Article 168

Piracy

1. A crew member or passenger in a vessel or aircraft, other than a military or public vessel or aircraft who, in violation of the rules of international law and with the intent to obtain for himself or herself or another person a material or non-material benefit or to seriously wound another person, commits unlawful violence against another vessel or aircraft or against a person or an object on board such vessel or aircraft on the high seas or on territory that is not under the jurisdiction of any country, shall be punished by imprisonment of one (1) to ten (10) years.
2. Any action performed by a crew member of a military or public vessel or aircraft who has rebelled and has usurped authority on a vessel or aircraft shall constitute an offense under paragraph 1. of this Article.

Article 169

Slavery, slavery-like conditions and forced labour

1. Whoever, in violation of international law including the European Convention of Human Rights, holds, maintains, places, purchases, or sells another person in slavery, slavery-like conditions, servitude or forced or compulsory labour, which includes, but is not limited to, holding a person in ownership, denying a person the fruits of his or her labour, coercing a person to provide their labour or denying a person the freedom to change his or her status or work conditions, shall be punished by fine and imprisonment of two (2) to ten (10) years.
2. Whoever, in violation of international law including the European Convention of Human Rights, for the purpose of committing the offenses provided for in paragraph 1 of this Article incites another person to renounce his or her freedom or brokers in the buying or selling of another person, shall be punished as provided for in paragraph 1. of this Article.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed against a person with whom the perpetrator has a domestic relationship, the perpetrator shall be punished by imprisonment of three (3) to ten (10) years.
4. When the offense provided for in paragraph 1 or 2 of this Article is committed against a child, the perpetrator shall be punished by imprisonment of three (3) to fifteen (15) years.
5. When the offense provided for in this Article is committed by an official person abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of five (5) to twelve (12) years in the case of the offense provided for in paragraphs 1-3; or by imprisonment of five (5) to twenty years (20) in the case of the offense provided for in paragraph 4 of this Article.

Article 170

Smuggling of migrants

1. Whoever engages in the smuggling of migrants shall be punished by fine and imprisonment of two (2) to ten (10) years.

2. Whoever with the intent to obtain, directly or indirectly, a financial or other material benefit, produces, supplies, provides or possesses a fraudulent travel or identity document in order to enable the smuggling of migrants shall be punished by a fine and imprisonment of up to five (5) years.
3. Whoever enables a person who is not a national of the Republic of Kosovo to remain in the Republic of Kosovo or a person who is not a national or a permanent resident to remain in the State concerned, without complying with the necessary legal requirements to remain by the means provided for in paragraph 2 of this Article or by any other illegal means shall be punished by a fine and imprisonment of up to one (1) year.
4. An attempt to commit the offense provided for in paragraph 3 of this Article shall be punishable.
5. Whoever organizes or directs other persons to commit the offense provided for in paragraph 1 or 2 shall be punished by a fine of up to five hundred thousand (500,000) EUR and by imprisonment of seven (7) to twenty (20) years, or by imprisonment of one (1) to ten (10) years, in case of the offense provided for in paragraph 3 of this Article.
6. When the offense provided for in paragraph 1, 2 or 3 of this Article is committed by a perpetrator acting as a member of a group or in a manner that endangers, or is likely to endanger, the lives or safety of the migrants concerned or in a manner that entails inhuman or degrading treatment, including exploitation, of such migrants, the perpetrator shall be punished by a fine and not less than five (5) years.
7. If the offense from paragraph 1, 2 or 3 of this Article results in death of one or more persons, the perpetrator shall be punished by a fine and imprisonment of not less than ten (10) years or life long imprisonment.
8. For the purposes of this Article expressions below have the following meaning:
 - 8.1. **Smuggling of migrants** - any action with the intent to obtain, directly or indirectly, a financial or other material benefit, from the illegal entry of a person into the Republic of Kosovo, where such person is not a Republic of Kosovo National, or a person who is a Republic of Kosovo National or a foreign national into a State in which such person is not a permanent resident or a citizen of such State.
 - 8.2. **Illegal entry** - crossing a border or a boundary of the Republic of Kosovo without complying with the necessary requirements for legal entry into the Republic of Kosovo or crossing the borders of a State without complying with the necessary requirements for legal entry into such State.
 - 8.3. **Fraudulent travel or identity document** - any travel or identity document:
 - 8.3.1. that has been falsely made or altered in some material way by any person other than a person or agency lawfully authorized to make or issue the travel or identity document;
 - 8.3.2. that has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
 - 8.3.3. that is being used by a person other than the rightful holder.
9. A person is not criminally liable under this Article if he or she is a migrant who is the object of the offense provided for in this Article.
10. Whoever abuses the visa liberalization regime with EU member States or the

Schengen Agreement shall be punished as follows:

- 10.1. whoever recruits, instigates, organizes, hides or transports a person in a EU member state for the purpose of obtaining a social, economic, or other benefit or right contrary to EU law, EU member State regulations, Schengen Agreement, or international law shall punished by imprisonment of at least four (4) years;
- 10.2. the perpetrator of this offense who should or might have known that the transport was conducted with the purpose of achieving the rights under paragraph 10.1 contrary to EU law, EU member State regulations, Schengen Agreement or international law, shall be punished by imprisonment of one (1) to five (5) years;
- 10.3. when the offense is committed for self-interest, the perpetrator shall be punished by imprisonment of at least eight (8) years for the offense under paragraph 10.2; and at least four (4) years imprisonment for offense under paragraph 10.2;
- 10.4. if the offense was committed by a legal person, it shall be punished by a fine;
- 10.5. all means and the transport vehicles used for commitment of this offence will be seized;
- 10.6. this paragraph shall start to be implemented at the moment the Council of European Union takes a decision for omission of visa regime for citizens of the Republic of Kosovo.

Article 171 **Trafficking in persons**

1. Whoever engages in trafficking in persons shall be punished by a fine and imprisonment of five (5) to twelve (12) years.
2. When the offense provided for in paragraph 1 of this Article is committed within a 350 meter radius of a school or other locality which is used by children or when the offense is committed against a person under the age of eighteen (18) years, the perpetrator shall be punished by a fine and imprisonment of three (3) to fifteen (15) years.
3. Whoever organizes a group of persons to commit the offense in paragraph 1. of this Article shall be punished by a fine of up to five hundred thousand (500,000) EUR and by imprisonment of seven (7) to twenty (20) years.
4. When the offense provided for in this Article is committed by an official person abusing his or her position or authorizations, the perpetrator shall be punished by:
 - 4.1. a fine and imprisonment of five (5) to fifteen (15) years in the case of the offense provided for in paragraph 1 or 2 of this Article;
 - 4.2. a fine and imprisonment of not less than ten (10) years in the case of the offense provided for in paragraph 3 of this Article;
5. If the offense from paragraph 1-4 of this Article results in death of one or more persons, the perpetrator shall be punished by imprisonment of not less than ten (10) years or life long imprisonment.
6. For the purposes of this Article and Article 172 of this Code expressions below shall have the following meaning:

- 6.1. **Trafficking in persons** - the recruitment, transportation, transfer, harboring or receipt of persons, by threat or the use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or the abuse of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
- 6.2. **Exploitation** - as used in sub-paragraph 6.1 of this paragraph shall include, but not be limited to, prostitution of others, pornography or other forms of sexual exploitation, begging, forced or compulsory labour or services, slavery or practices similar to slavery, servitude or the removal of organs or tissue.
- 6.3. The consent of a victim of trafficking in persons to the intended exploitation shall be irrelevant where any of the means set forth in sub-paragraph 6.1. of this paragraph have been used against such victim.
- 6.4. The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph 6.1. of this paragraph.

Article 172

Withholding identity papers of victims of slavery or trafficking in persons

1. Whoever withholds another person’s personal identification documents or passport knowing that the person is a victim of a criminal offenses provided for in Articles 169 and 171, shall be punished by imprisonment of one (1) to five (5) years.
2. When the offense provided for in paragraph 1. of this Article is committed by an official person abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of three (3) to seven (7) years.

Article 173

Endangering internationally protected persons

1. Whoever intentionally deprives an internationally protected person of his or her life shall be punished by imprisonment of not less than ten (10) years or life long imprisonment.
2. Whoever engages in the kidnapping or attack on the person or liberty of an internationally protected person shall be punished by imprisonment of three (3) to twelve (12) years.
3. Whoever engages in a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person, where such attack is likely to endanger his or her person or liberty shall be punished by imprisonment of one (1) to ten (10) years.
4. Whoever makes a serious threat to commit the offense provided for in paragraph 1, 2 or 3 of this Article shall be punished by imprisonment of one (1) to five (5) years.
5. Whoever organizes or orders another person to commit the offense provided for in

paragraph 1, 2 or 3 of this Article shall be punished by imprisonment of three (3) to five (5) years.

6. When the offense in paragraph 2 or 3 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of not less than ten (10) years or life long imprisonment.
7. For the purposes of this Article, the term “internationally protected person” shall have the same meaning as defined in Article 120 of this Code.

Article 174

Endangering United Nations and associated personnel

1. Whoever intentionally deprives United Nations or associated personnel of his or her life shall be punished by imprisonment of not less than ten (10) years or life long imprisonment.
2. Whoever engages in the kidnapping or attack on the person or liberty of United Nations or associated personnel shall be punished by imprisonment of three (3) to twelve (12) years.
3. Whoever engages in a violent attack upon the official premises, the private accommodation or the means of transport of United Nations or associated personnel, where such attack is likely to endanger his or her person or liberty shall be punished by imprisonment of one (1) to ten (10) years.
4. Whoever makes a serious threat to commit the offense in paragraph 1, 2 or 3 of this Article shall be punished by imprisonment of one (1) to five (5) years.
5. When the offense in paragraph 2 or 3 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of not less than ten (10) years.
6. For the purposes of this Article, terms below shall have the following meaning:
 - 6.1. **United Nations Personnel:**
 - 6.1.1. persons engaged or deployed by the Secretary-General of the United Nations as members of the military, police or civilian components of a United Nations operation; or
 - 6.1.2. other officials and experts on mission of the United Nations or its specialized agencies or the International Atomic Energy Agency who are present in an official capacity in the area where a United Nations operation is being conducted.
 - 6.2. **Associated personnel:**
 - 6.2.1. persons assigned by a Government or an intergovernmental organization with the agreement of the competent organ of the United Nations;
 - 6.2.2. persons engaged by the Secretary-General of the United Nations or by a specialized agency or by the International Atomic Energy Agency; or
 - 6.2.3. persons deployed by a humanitarian non-governmental organization or agency under an agreement with the Secretary-General of the United Nations or with a specialized agency or with the International Atomic Energy Agency, to carry out activities in

support of the fulfillment of the mandate of a United Nations operation.

- 6.3. **United Nations operation** - an operation established by the competent organ of the United Nations in accordance with the Charter of the United Nations and conducted under United Nations authority and control:
- 6.3.1. where the operation is for the purpose of maintaining or restoring international peace and security; or
 - 6.3.2. where the Security Council or the General Assembly has declared, for the purposes of the Convention on the Safety of United Nations and Associated Personnel of 9 December 1994, that there exists an exceptional risk to the safety of the personnel participating in the operation.

Article 175 **Hostage-taking**

1. Whoever takes hostage and threatens to kill a person, to injure or to continue to keep such person with the intent to compel a State or international organization, to do or abstain from doing an act as an explicit or implicit condition for the release of the hostage, shall be punished by imprisonment of not less than three (3) years.
2. Whoever intentionally deprives the hostage of his or her life in committing an offense provided for in paragraph 1 of this Article shall be punished by not less than ten (10) years or of life long imprisonment.
3. When the offense in paragraph 1 of this Article results in the death of the hostage, the perpetrator shall be punished by imprisonment of not less than ten (10) years.

Article 176 **Unlawful appropriation, use, transfer and disposal of nuclear material**

1. Whoever, without authorization, receives, possesses, uses, transfers, alters, disposes or disperses nuclear material and causes or is likely to cause death or serious injury to any person or substantial damage to property shall be punished by imprisonment of not less than five (5) years.
2. When the offense provided for in paragraph 1. of this Article results in the death of one or more persons or substantial material damage, the perpetrator shall be punished by imprisonment of not less than ten (10) years or by life long imprisonment.
3. Whoever commits the offense provided for in paragraph 1 or 2 of this Article by negligence shall be punished by imprisonment of up to seven (7) years, in the case of the offense provided for in paragraph 1 and by imprisonment of not less than three (3) years in the case of the offense provided for in paragraph 2 of this Article.
4. Whoever commits theft, robbery or misappropriation of nuclear material or makes a demand for nuclear material by the use of force, serious threat or by any other form of intimidation shall be punished by imprisonment of not less than five (5) years.

Article 177

Threats to use or commit theft or robbery of nuclear material

1. Whoever threatens to use nuclear material to cause death or serious injury to any person or substantial property damage shall be punished by imprisonment of one (1) to eight (8) years.
2. Whoever, with the intent to compel a natural or legal person to do or abstain from doing an act, threatens to commit theft or robbery of nuclear material shall be punished by imprisonment of five (5) to fifteen (15) years.
3. When the offense provided for in paragraph 2. of this Article results in the death of one or more persons or substantial material damage, the perpetrator shall be punished by imprisonment of not less than ten (10) years.

CHAPTER XVI

CRIMINAL OFFENSES AGAINST LIFE AND BODY

Article 178

Murder

Whoever deprives another person of his or her life shall be punished by imprisonment of not less than five (5) years.

Article 179

Aggravated murder

1. A punishment of imprisonment of not less than ten (10) years or of life long imprisonment shall be imposed on any person who:
 - 1.1. deprives a child of his or her life;
 - 1.2. deprives a pregnant woman of her life;
 - 1.3. deprives a family member of his or her life;
 - 1.4. deprives another person of his or her life in a cruel or deceitful way;
 - 1.5. deprives another person of his or her life and in doing so intentionally endangers the life of one or more other persons;
 - 1.6. deprives another person of his or her life for the purpose of obtaining a material benefit;
 - 1.7. deprives another person of his or her life for the purpose of committing or concealing another criminal offense, or preventing the person from testifying or otherwise providing information to police or in a criminal proceeding;
 - 1.8. deprives another person of his or her life because of unscrupulous revenge or other base motives, including in retaliation for testifying or otherwise providing any information to police or in a criminal proceeding;
 - 1.9. deprives an official person of his or her life when such person is executing his or her official or related duties;
 - 1.10. deprives another person of his or her life because of racial, national or religious motives;

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- 1.11. intentionally commits two or more murders except for the offenses provided for in Article 180 and 182 of this Code; or.
- 1.12. deprives another person of his or her life and has previously been convicted of murder, except for the offenses provided for in Articles 180 and 182 of this Code.

Article 180

Murder committed in a state of severe mental distress

Whoever deprives another person of his or her life while in a state of severe mental distress, caused through no fault of his or her own, by an attack, maltreatment or grave insult by the murdered person, shall be punished by imprisonment of one (1) to ten (10) years.

Article 181

Negligent murder

Whoever by negligence deprives another person of his or her life shall be punished by imprisonment of six (6) months to five (5) years.

Article 182

Murder of infants during birth

A mother who deprives her infant of his or her life during or immediately after birth while affected by a disorder caused by birth shall be punished by imprisonment of three (3) months to three (3) years.

Article 183

Inciting suicide and assisting in suicide

1. Whoever incites or assists another person to commit suicide, and the suicide is committed, shall be punished by imprisonment of one (1) to five (5) years.
2. Whoever commits the offense provided for in paragraph 1 of this Article against a minor or a person whose capability to understand the gravity of his or her act or whose ability to control his or her behavior was substantially diminished, shall be punished by imprisonment of one (1) to ten (10) years.
3. Whoever commits the offense provided for in paragraph 1 of this Article against a person under the age of fourteen (14) years or against a person who was incapable of understanding the gravity of his or her act or controlling his or her behavior shall be punished in accordance with Article 178 of this Code.
4. Whoever treats another person in a subordinate position in a cruel or inhumane way and thereby causes such person to commit suicide shall be punished by imprisonment of six (6) months to five (5) years. For the purpose of this paragraph “person in a subordinate position” means a person who is under the supervision, rank, control or custody of the person who acted in a cruel or inhumane way.
5. If, as a result of an offense provided for in paragraphs 1 to 4 of this Article, suicide has only been attempted, the punishment may be reduced.

Article 184
Unlawful termination of pregnancy

1. Whoever, with the consent of the pregnant woman, but in violation of the Law for Termination of Pregnancy terminates a pregnancy, commences to terminate a pregnancy, or assists in terminating a pregnancy shall be punished by imprisonment of six (6) months to three (3) years.
2. Whoever terminates or commences to terminate a pregnancy without the consent of the pregnant woman shall be punished by imprisonment of one (1) to eight (8) years.
3. When the offense provided for in paragraph 1 or 2 of this Article results in grievous bodily injury, serious impairment to health or the death of the pregnant woman, the perpetrator shall be punished by:
 - 3.1. imprisonment of one (1) to ten (10) years, in the case of the offense provided for in paragraph 1 of this Article;
 - 3.2. imprisonment of five (5) to fifteen (15) years in the case of the offense provided for in paragraph 2 of this Article.

Article 185
Threat

1. Whoever seriously threatens by words, acts or gestures to harm another person in order to frighten or cause anxiety to such person shall be punished by a fine or by imprisonment of up to six (6) months.
2. Whoever seriously threatens by words, acts or gestures to deprive another person of his or her life, to inflict grave bodily harm, to kidnap or deprive another person of his or her liberty or to inflict harm by fire, explosion or any other dangerous means shall be punished by a fine or by imprisonment of up to one (1) year.
3. When the offense provided in paragraph 1. or 2. of this Article is committed against an official person in connection with his or her work or position or against several persons or when the offense is committed by a perpetrator acting as a member of a group, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
4. Whoever commits the offense provided for in this Article by using a weapon, a dangerous instrument or another object capable of causing bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of one (1) to five (5) years.
5. Criminal proceedings for the offense provided for in paragraph 1 or 2 of this Article shall be initiated following a motion.

Article 186
Harassment

1. Whoever engages in a pattern of repeated and unwanted attention or communication with the intent to harass, intimidate, injure, damage property or kill another person or his or her children, family, relatives or pets or whoever places

another under surveillance with the intent to harass, intimidate, injure, damage property or kill another person or his or her children, family, relatives or pets; and in the course thereof, places that person in reasonable fear of death, grievous bodily injury, serious damage to property or substantial emotional distress shall be punished by a fine or imprisonment up to three (3) years.

2. When the offense provided for in paragraph 1. of this Article is committed against a former or current domestic partner or a former or current family member, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed with a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of one (1) to five (5) years.
4. The attention or communication in paragraph 1 may include following or laying in wait; repeatedly appearing at the home, school, work or recreation place; making repeated phone calls; sending or leaving messages; sending text messages, mail or e-mails; or, leaving or sending unwanted gifts or other items.

Article 187 Assault

1. Whoever intentionally applies force to another person without that person's consent shall be punished by a fine or imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed with a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or a serious impairment to health, the perpetrator shall be punished by six (6) months to five (5) years.
3. When the offense provided for in paragraph 1 this Article is committed against a vulnerable victim, the perpetrator shall be punished by imprisonment of six (6) months to three (3) years.

Article 188 Light bodily injury

1. Whoever inflicts light bodily injury upon another person which results in:
 - 1.1. temporarily damaging or weakening an organ or a part of the body of the other person;
 - 1.2. temporarily diminishing the capacity of the other person to work;
 - 1.3. temporarily disfiguring the other person; or
 - 1.4. temporarily impairing the health of the other person, shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article is committed with a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or a serious impairment to health, the perpetrator shall be punished by imprisonment of up to three (3) years.
3. When the offense provided for in this Article is committed against a vulnerable victim, the perpetrator shall be punished by:

- 3.1. imprisonment of three (3) months to three (3) years, in the case of the offense provided for in paragraph 1 of this Article; or
- 3.2. imprisonment of six (6) months to five (5) years, in the case of the offense provided for in paragraph 2 of this Article.
4. The court may impose a judicial admonition on the perpetrator for the offense provided for in paragraph 1 or 2 of this Article if the perpetrator was provoked by the inhumane or brutal conduct of the injured party.

Article 189 **Grievous bodily injury**

1. Whoever inflicts grievous bodily injury upon another person or impairs the health of another person to such extent that it may result in:
 - 1.1. temporarily and substantially weakening a vital part of the body of the other person;
 - 1.2. temporarily destroying, temporarily and substantially diminishing, or permanently diminishing the capacity of the other person to work; or
 - 1.3. temporarily and seriously impairing the health of the other person, shall be punished by imprisonment of six (6) months to five (5) years.
2. Whoever inflicts bodily harm or impairs the health of another person that results in:
 - 2.1. endangering the life of the person;
 - 2.2. permanently destroying or weakening a vital part of the body of the other person;
 - 2.3. permanently destroying the capacity of the other person for any kind of work;
 - 2.4. permanently disfiguring the other person; or
 - 2.5. permanently and seriously impairing the health of the other person, shall be punished by imprisonment of one (1) to ten (10) years.
3. When the offense provided for in this Article is committed against a vulnerable victim, the perpetrator shall be punished by:
 - 3.1. imprisonment from one (1) to five (5) years, in the case of the offense provided for in paragraph 1 of this Article; or
 - 3.2. imprisonment from two (2) to ten (10) years, in the case of the offense provided for in paragraph 2 of this Article.
4. When the offense provided for in paragraph 1, 2 or 3 of this Article results in the death of the other person, the perpetrator shall be punished by imprisonment of two (2) to twelve (12) years.
5. When the offense provided for in paragraph 1, 2 or 3 of this Article is committed with a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or a serious impairment to health, the perpetrator shall be punished by imprisonment of not less than three (3) years.

Article 190
Participation in a brawl

1. Whoever participates in a brawl which results in the death or grievous bodily injury of a person shall be punished for participating in a brawl by a fine or by imprisonment of up to three (3) years.
2. Whoever during a brawl or quarrel with intent to frighten or threaten a person, grabs and brandishes a weapon, dangerous item or other item that is capable of inflicting grievous bodily injury or to inflict serious damage to the health of a person shall be punished by fine or by imprisonment from one (1) to three (3) years.
3. A person is not criminally liable under paragraph 1 of this Article if he or she participated in the brawl through no fault of his or her own or merely to defend himself or herself or to separate other participants in the brawl.
4. he weapon, dangerous item or other item shall be confiscated.

Article 191
Refraining from providing help

1. Whoever refrains from providing help to a person whose life is directly endangered, even though he or she could have acted without serious risk of endangering himself or herself or another person shall be punished by imprisonment of up to one (1) year.
2. Whoever refrains from providing help to another person in a dangerous life threatening situation or circumstances which were brought about by the perpetrator shall be punished by imprisonment of three (3) years.
3. When the criminal offense provided for in paragraph 1. of this Article results in grievous bodily injury or serious impairment to the health of the endangered person, the perpetrator shall be punished by imprisonment of three (3) months to three (3) years.
4. When the criminal offense provided for in paragraph 1 of this Article results in the death of the endangered person, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 192
Abandoning incapacitated persons

1. Whoever, leaves an incapacitated person entrusted to him or her or under his or her care, unaided in circumstances dangerous to the life or health of such person shall be punished by imprisonment of up to three (3) years.
2. When the criminal offense provided for in paragraph 1 of this Article results in grievous bodily injury or serious impairment to the health of the person who has been left unaided, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
3. When the criminal offense provided for in paragraph 1 of this Article results in the death of the person who has been left unaided, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

CHAPTER XVII
CRIMINAL OFFENSES AGAINST LIBERTIES AND RIGHTS OF PERSONS

Article 193

Violating equal status of citizens and residents of the Republic of Kosovo

1. Whoever unlawfully denies or limits the freedoms or rights of any person in the Republic of Kosovo as set forth in the Constitution, applicable law or international acts, or whoever unlawfully grants any person in the Republic of Kosovo any privilege or advantage on the basis of such a difference or affiliation shall be punished by imprisonment of up to three (3) years.
2. Whoever denies or limits a member of an ethnic, religious or linguistic community in the Republic of Kosovo the right to freely express his or her identity or to enjoy his or her autonomy shall be punished by imprisonment of up to one (1) year.
3. Whoever, contrary to the laws regarding the use of language and script, denies a national of the Republic of Kosovo the right to freely use his or her own language or script shall be punished by a fine or by imprisonment of up to one (1) year.
4. When the offense provided for in paragraph 1 or 2 of this Article is committed by an official person abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years;
5. When the offense provided for in paragraph 3. of this Article is committed by an official person abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of six (6) months to three (3) years.

Article 194

Kidnapping

1. Whoever takes or holds a person with the intent not to release him or her before extracting money, a material benefit or other assets from him, her or another person, or with the intent to force him or her or another person to do or abstain from doing an act or to acquiesce to an act shall be punished by imprisonment of one (1) to ten (10) years.
2. When the offense provided for in paragraph 1 of this Article is committed in one or more of the following circumstances the perpetrator shall be punished by imprisonment of three (3) to twelve (12) years:
 - 2.1. the perpetrator threatened the kidnapped person with death or severe impairment to health;
 - 2.2. the perpetrator committed the offense acting as a member of a group;
 - 2.3. the perpetrator committed the offense using a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or a serious impairment to health;
 - 2.4. the perpetrator committed the offense against a vulnerable victim.
3. When the offense provided for in paragraph 1 of this Article is committed in one or more of the following circumstances, the perpetrator shall be punished by imprisonment of fifteen (15) years or life long imprisonment:
 - 3.1. the perpetrator committed the offense acting as a member of an organized group;

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- 3.2. the perpetrator caused great bodily harm or death to the kidnapped person during the offense.
4. For purposes of paragraph 1. of this Article, a person who takes or detains a child is to be treated as acting without the consent of the child.
5. If the perpetrator voluntarily releases the kidnapped person before the demands for which the kidnapping was committed are fulfilled, the punishment may be reduced.

Article 195 Coercion

1. Whoever compels another person by force or serious threat to do or abstain from doing an act or to acquiesce to an act shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1. of this Article is committed in one or more of the following circumstances the perpetrator shall be punished by imprisonment of three (3) months to five (5) years:
 - 2.1. the perpetrator threatened the coerced person with death or severe impairment to health;
 - 2.2. the perpetrator committed the offense acting as a member of a group;
 - 2.3. the perpetrator committed the offense using a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or a serious impairment to health;
 - 2.4. the perpetrator committed the offense committed the offense against a vulnerable victim.
3. When the offense provided for in paragraph 1. of this Article is committed in one or more of the following circumstances, the perpetrator shall be punished by imprisonment of two (2) to ten (10) years:
 - 3.1. the perpetrator committed the offense acting as a member of an organized group;
 - 3.2. the perpetrator caused great bodily harm or death during the offense.

Article 196 Unlawful deprivation of liberty

1. Whoever unlawfully imprisons, detains or in another way deprives another person of his or her liberty shall be punished by a fine or by imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed in one or more of the following circumstances, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years:
 - 2.1. when the offense is committed against a vulnerable victim;
 - 2.2. when the offense is committed in a cruel manner;
 - 2.3. when the unlawful deprivation of liberty continues for more than fifteen (15) days;
 - 2.4. when the offense results in severe impairment to the health of the unlawfully detained person or in other grave consequences;

- 2.5. when the offense is committed by a perpetrator acting as a member of a group.
3. When the offense provided for in paragraph 1. or 2. of this Article is committed by an official person, abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years. If this offense is committed by the use of a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or a serious impairment to health, the perpetrator shall be punished by imprisonment of one (1) to ten (10) years.
4. When the offense provided for in paragraph 1-2 of this Article is committed by the use of a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or a serious impairment to health, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
5. When the offense provided for in paragraph 1-4 of this Article results in the death of the person unlawfully deprived of liberty, the perpetrator shall be punished by imprisonment of not less than five (5) years.

Article 197

Coercion to obtain statements

1. An official person who, in abusing his or her position or authorizations, uses force or serious threat or any other prohibited means or manner to compel any suspect, defendant, witness, expert or other person to make a statement or declaration shall be punished by imprisonment of three (3) months to five (5) years.
2. When the offense provided for in paragraph 1. of this Article is committed using grave violence or if the suspect, defendant, witness, expert or other person suffered grave consequences in the criminal proceedings as a result of the statement or declaration obtained by coercion, the perpetrator shall be punished by imprisonment of one (1) to ten (10) years.

Article 198

Mistreatment during exercise of official duty or public authorization

1. An official person who, in abusing his or her position or authorizations, mistreats, intimidates or gravely insults the dignity of another person shall be punished by imprisonment up to three (3) years.
2. When the offense provided for in paragraph 1. of this Article is committed against a child, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.

Article 199

Torture

1. An official person, or a person acting at the instigation of or with the consent or acquiescence of an official person, who commits an act of torture shall be punished by imprisonment of one (1) to fifteen (15) years.
2. When the offense provided for in paragraph 1 of this Article is committed against a

child, the perpetrator shall be punished by imprisonment of three (3) to fifteen (15) years.

3. For the purposes of this Article, an act of torture means any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining from such person or from a third person information or a statement, or punishing such person for an act that he or she or a third person has committed or is suspected of having committed, or for intimidating or coercing the person or a third person or for any reason based on discrimination of any kind. An act of torture does not include any act or omission arising only from, inherent in or incidental to lawful sanctions.

Article 200

Infringing inviolability of residences and premises

1. Whoever, without authorization or in an unlawful manner, enters the residence or closed premises of another person or fails to leave such residence or premises upon the request of the authorized person shall be punished by imprisonment of up to three (3) years.
2. An attempt to commit the offense provided for in paragraph 1 of this Article shall be punishable.
3. When the offense provided for in paragraph 1 of this Article is committed by an official person abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
4. When the offense provided for in paragraph 1-2 of this Article is committed by the use of a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of one (1) to five (5) years.
5. For the purposes of this Article, premises shall include but not be limited to a residence and the adjoining yard, a business, an office, a hotel or rented room.

Article 201

Unlawful search

1. An official person who, in abusing his or her position or authorizations, conducts an unlawful search of a residence, premises or person shall be punished by imprisonment of three (3) months to three (3) years.
2. For the purposes of this Article, premises shall include but not be limited to a residence and the adjoining yard, a business, an office, a hotel or rented room.

Article 202

Infringing privacy in correspondence and computer databases

1. Whoever, without authorization, opens a letter, telegram, facsimile or some other sealed document, package or electronic communication of another person or in any other way violates the privacy of such materials or, without authorization, withholds, conceals, destroys or delivers to another person a letter, telegram,

facsimile, electronic communication or some other sealed document or package of another person shall be punished by a fine and by imprisonment of up to six (6) months.

2. Whoever, without authorization, intrudes upon the computer database of another person or uses data obtained from such database or makes such data available to another person shall be punished by a fine and by imprisonment of up to one (1) year.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed for the purpose of obtaining a material benefit for himself or herself or another person or of causing damage to another person, the perpetrator shall be punished by a fine and imprisonment of up to three (3) years.
4. When the offense provided for in paragraph 1, or 2 or 3 of this Article is committed by an official person, in abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of three (3) months to three (3) years, in the case of the offense provided for in paragraph 1 or 2 of this Article or by imprisonment of one (1) to five (5) years, in the case of the offense provided for in paragraph 3 of this Article.

Article 203

Unauthorized disclosure of confidential information

1. An attorney, a defense counsel, physician or any other person who, without authorization, discloses confidential information that he or she became aware of while exercising his or her profession and that he or she is under legal duty to maintain as confidential, shall be punished by a fine or by imprisonment of up to one (1) year.
2. A person is not criminally liable under paragraph 1 of this Article if he or she disclosed the confidential information in the public interest, if such interest outweighs the interest in the non-disclosure of the confidential information.
3. Criminal proceedings for the offense provided for in paragraph 1 of this Article shall be initiated upon a motion.
4. Public Interest” means the welfare of the general public outweighs the individual interest. The disclosure of confidential information is in the public interest if it involves plans, preparation or the commission of crimes against the constitutional order or territorial integrity of the Republic of Kosovo or other criminal offenses that will cause great bodily injury or death to another person.

Article 204

Unauthorized interception

1. Whoever, without authorization, intercepts a conversation or a statement or enables another person to have knowledge of a conversation or statement which was intercepted without authorization shall be punished by imprisonment of one (1) to three (3) years.
2. When the offense provided for in paragraph 1. of this Article is committed by an official person in abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of two (2) to five (5) years.

3. The equipment used to commit the criminal offense provided for in paragraph 1. of this Article shall be confiscated.

Article 205

Unauthorized photographing and other recording

1. Whoever, without authorization, photographs, films, or videos or in any other way records another person in his or her personal premises or in any other place where a person has a reasonable expectation of privacy, and in that way fundamentally violates another's privacy, shall be punished by a fine or by imprisonment of one (1) to three (3) years.
2. Whoever without authorization passes on, displays or grants access to a third person to a photograph, film, videotape or any other recording obtained in violation of paragraph 1, shall be punished by imprisonment of one (1) to three (3) years.
3. When the offense provided for in paragraph 1 of this Article is committed by an official person, in abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of two (2) to five (5) years.
4. There is no criminal liability if the photographing or recording is conducted to discover a criminal offence or the perpetrators of a criminal offence, or to present as evidence to the police, prosecution or court, and if the photos or recordings are submitted to these authorities.
5. The equipment used to commit the criminal offense provided for in paragraph 1. of this Article shall be confiscated.

Article 206

Violating orders for covert or technical measures of surveillance or investigation

1. The authorized police officer who implements a judicial or prosecutorial order for covert or technical measures of surveillance or investigation in violation of the law shall be punished by imprisonment of three (3) months to three (3) years.
2. Whoever reveals information which will damage the effectiveness of the implementation of an order for covert or technical measures of surveillance or investigation shall be punished by imprisonment of six (6) months to three (3) years.
3. A person responsible for the operation of telecommunications, computer networks or postal services or an employee of a financial institution who fails to take appropriate steps to facilitate the implementation of an order for interception of telecommunications, interception of communications by a computer network, search of postal items, metering of telephone calls or disclosure of financial data, shall be punished by a fine or a term of imprisonment of three (3) months up to three (3) years.

Article 207

Preventing or hindering a public meeting

1. Whoever, by use of deception or in any other way, prevents or hinders the convening or holding of a public meeting to which persons are entitled by law shall be punished by a fine or by imprisonment up to one (1) year.

2. When the offense provided for in paragraph 1. of this Article is committed by an official person abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of up to two (2) years.

Article 208

Preventing exercise of the right to use legal remedies

1. Whoever unlawfully prevents another person from using his or her right to lodge a complaint, criminal report, lawsuit, appeal, objection or to use any other legal remedy shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article is committed by an official person abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of three (3) months to three (3) years.

Article 209

Preventing printing or distribution of printed materials and broadcasting of programs

1. Whoever unlawfully prevents the printing, recording, selling, distribution or broadcast of books, magazines, newspapers, audio or video tapes, radio and television programs, or other printed or recorded materials shall be punished by a fine or by imprisonment of up to one (1) year.
2. If the offense provided for in paragraph 1 of this Article is committed by an official person abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of up to three (3) years.

CHAPTER XVIII

CRIMINAL OFFENSES AGAINST VOTING RIGHTS

Article 210

Violation of the right to be a candidate

1. Whoever unlawfully prevents or obstructs any person seeking to run for election shall be punished by fine or imprisonment up to one (1) year.
2. If the offense in paragraph 1 of this Article was committed by the use of force or serious threat, the perpetrator shall be punished by imprisonment of six (6) months to three (3) years.

Article 211

Threat to the candidate

1. Whoever unlawfully forces any candidate to withdraw his or her candidacy shall be punished by a fine or imprisonment up to one (1) year.
2. Whoever unlawfully prevents or obstructs any candidate from exercising any activity during an election campaign, shall be punished by a fine or imprisonment up to one (1) year.

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3. Whoever commits the offense set forth in paragraph 1. or 2. of this Article by the use of force or serious threat shall be punished by imprisonment of six (6) months to three (3) years.

Article 212
Preventing exercise of the right to vote

1. Whoever, in the exercise of duties entrusted to him or her related to elections, unlawfully, and with the intent to prevent another person from exercising his or her right to vote, fails to record such person in a voter registration list or removes such person from the voter registration list shall be punished by imprisonment of one (1) to three (3) years.
2. Whoever, during the voting or the referendum unlawfully prevents, obstructs, hinders or influences the free decision of a voter or in any other manner prevents another person from exercising his or her right to vote shall be punished by imprisonment up to one (1) year.
3. Whoever commits the offense from paragraphs 1 and 2 of this Article by the use of force or serious threat shall be punished by imprisonment of one (1) to five (5) years.

Article 213
Violating the free decision of voters

Whoever by the use of force or serious threat or abuse of the economic and professional dependence of a voter, influences or compels a voter in the Republic of Kosovo to vote in a particular way or to abstain from voting in an election shall be punished by imprisonment of one (1) to five (5) years.

Article 214
Abuse of official duty during elections

Whoever, being an official person entrusted with duties related to elections, abuses his or her position, duties or authority by ordering, advising or committing any other unlawful act with the intent to alter, change or influence the voter registration list or the voting of any person or in any other manner acts with the intent to alter, change, influence or prevent any person from exercising his or her right to vote, right not to vote, to cast a void vote or to vote in favor of or against a specific person or proposal shall be punished by a fine and imprisonment of two (2) to five (5) years.

Article 215
Giving or receiving a bribe in relation to voting

1. Whoever promises, offers, gives any undue benefit or gift to any person, with the intent to influence that person to vote, not to vote, vote in favor or against a specific person or proposal, or to cast a void vote, in any election or referendum shall be punished by imprisonment of one (1) to five (5) years.

2. Whoever requests or receives any undue benefit or gift for himself, herself or for another any person, or accepts an offer or promise of such benefit or gift, to vote or not to vote, to vote in favor or against a specific person or proposal, or to cast a void vote, in any election or referendum shall be punished by imprisonment of one (1) to five (5) years.
3. Whoever serves as an intermediary and violates paragraph 1. or 2. of this Article shall be punished by imprisonment of one (1) to five (5) years.
4. If the offense from paragraph 1-3 of this Article is committed by a member of the Election Commission or any other person during the exercise of his or her official duties in regard to voting, the perpetrator shall be punished by imprisonment from three (3) to five (5) years.
5. The gift shall be confiscated.

Article 216
Abusing the right to vote

1. Whoever commits one or more of the following offenses shall be punished by imprisonment of six (6) months to three (3) years:
 - 1.1. votes or attempts vote under the name of another person;
 - 1.2. votes or attempts to vote even though he or she has already voted; or,
 - 1.3. uses more than one voting list.
2. The member of the Election Commission who makes possible for a person to commit or attempt to commit the criminal offense from paragraph 1 of this Article shall be punished by imprisonment of three (3) to five (5) years.

Article 217
Obstructing the voting process

1. Whoever, in any unlawful manner obstructs or interrupts the voting process shall be punished by imprisonment of one (1) to two (2) years.
2. Whoever by use of force or serious threat, obstructs the voting with the instigation of public disorder in the polling station that results in an interruption in voting shall be punished by imprisonment of one (1) to three (3) years.

Article 218
Violating confidentiality in voting

1. Whoever, in an election or referendum, violates confidentiality in voting shall be punished by imprisonment of up to six (6) months.
2. Whoever, by use of force or serious threat, or any other unlawful way demands from a person to reveal how he or she has voted shall be punished by imprisonment of up to one (1) year.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed by a member of the Election Committee or any other person abusing his or her duties, position or authorizations related to elections or voting, the perpetrator shall be punished by imprisonment of one (1) to five (5) years.

Article 219
Falsification of voting results

1. Whoever adds, removes or deletes votes or signatures, registers incorrectly a vote or the results of the election in the election documents, or publishes a vote or the results of the election or the voting that does not correspond to the actual voting, or in any other way falsifies a vote or the results of an election shall be punished by a fine or imprisonment of one (1) to three (3) years.
2. When the offense provided for in paragraph 1. of this Article is committed by a member of the Election Commission or any other person abusing his or her duties, position or authorizations related to elections, the perpetrator shall be punished by imprisonment three (3) to five (5) years.

Article 220
Destroying voting documents

1. Whoever destroys, conceals, damages or takes the voting slip or any other object or document related to the election or referendum shall be punished by imprisonment of one (1) to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed by a member of the Election Commission or any other person abusing his or her duties, position or authorizations related to elections, the perpetrator shall be punished by imprisonment of three (3) to five (5) years.

CHAPTER XIX
CRIMINAL OFFENSES AGAINST LABOUR RELATIONS RIGHTS

Article 221
Violating rights in labour relations

Whoever knowingly fails to comply with the law or a collective contract relating to employment or termination of labour relations; salaries or other income; the length of working hours, overtime work or shift work; vacation or absence from work; or, the protection of women, children or disabled persons, and thereby denies or restricts the rights to which an employee is entitled shall be punished by a fine or by imprisonment of up to one (1) year.

Article 222
Violating rights of employment and unemployment

1. Whoever denies or restricts the right of persons to employment under equal conditions which have been determined by law shall be punished by a fine or by imprisonment of up to two (2) years.
2. Whoever fails to abide by the law on the rights of the unemployed and in this way denies or restricts the rights to which they are entitled shall be punished as provided for in paragraph 1. of this Article.

Article 223

Violation of the right to management

1. Whoever unlawfully obstructs or prevents the managing body in decision making or renders it impossible for a member of the managing body to exercise his or her right to participate in decision making in that body, shall be punished by a fine or by imprisonment of up to one (1) year.
2. If the offense provided for in paragraph 1 of this Article is committed by an official or responsible person abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of up to two (2) years.
3. Whoever commits the offense set forth in paragraph 1. or 2. of this Article by the use of force, or serious threat shall be punished by imprisonment from six (6) months to five (5) years.

Article 224

Violation of the right to strike

1. Whoever by the use of force or serious threat or in any other unlawful manner, prevents or obstructs a worker from organizing, participating or otherwise exercising any legal right to strike in accordance with the law and to participate in the strike or in any other manner exercise their right to strike, shall be punished by a fine or imprisonment of up to two (2) years.
2. The employer or the responsible person who dismisses an employee because of his or her participation in a lawfully organized strike or who takes other measures by which the worker's labor rights are violated, shall be punished by a fine or imprisonment of up to two (2) years.

Article 225

Misuse of the right to strike

1. Whoever, in violation of the law, organizes or leads a strike and if the elements of another criminal offense are not present, shall be punished by a fine or imprisonment up to one (1) year.
2. Whoever, in violation of the law, organizes or leads a strike that causes large scale damage, large scale loss or endangers the life or health of persons, and if the elements of another criminal offense are not present, shall be punished by a fine or imprisonment up to three (3) years.

Article 226

Violating social insurance rights

Whoever knowingly fails to comply with the law or a collective contract relating to health, retirement, or disability insurance or any other form of social insurance and by doing so denies or limits the rights of a worker shall be punished by a fine or by imprisonment of up to one (1) year.

Article 227
Misuse of social insurance rights

Whoever under false pretenses or by self inflicting an illness or incapacity upon himself or herself or in any other unlawful manner receives social security or state pension rights, which he or she is not entitled to by law, shall be punished by a fine or imprisonment up to three (3) years.

CHAPTER XX
CRIMINAL OFFENSES AGAINST SEXUAL INTEGRITY

Article 228
Definitions relating to the criminal offenses against sexual integrity

For the purposes of this chapter the following terms shall have this meaning:

1. Term "Consent" means the voluntary agreement of a person who has reached the age of sixteen years to engage in the sexual act in question. No consent is obtained where:
 - 1.1. such person expresses, by word or conduct, a lack of agreement to engage or to continue to engage in the sexual act;
 - 1.2. the agreement is expressed by the words or conduct of a person other than the victim;
 - 1.3. the agreement of the victim was obtained by deception, fear or intimidation, where such means do not involve the use of force, serious threat or exploitation as provided for in paragraph 3 of Article 230 of this Code; or
 - 1.4. such person is incapable of agreeing to the sexual activity because of diminished mental or physical capacity or intoxication by alcohol, drugs or other substances.
2. Nothing in paragraph 1 of this article shall be interpreted as limiting the circumstances in which there is no consent.
3. Term "Sexual act" means penetration however slight of any part of the body of a person with a sexual organ, or the penetration however slight of the anal or genital opening of a person with any object or any other part of the body.
4. Term "Subjecting another person to a sexual act" means the commission of a sexual act on another person by the perpetrator, or inducing another person to commit a sexual act on the perpetrator or a third person or inducing a third person to commit a sexual act on another person.
5. Term "Private parts" means the breasts of a woman, the penis, vagina and/or anus.
6. Term "Touching" means any direct or indirect contact, where there is no penetration, between the body of a person with any part of the body of another person or with an object.
7. Term "Child pornography" means any visual image or visual depiction or representation, including any photograph, film, video, picture or computer generated image or picture, whether made or produced by electronic, mechanical or other means, which shows or represents:

- 7.1. the genitals (vagina, penis or anus) or the pubic area of a child primarily for sexual purposes;
 - 7.2. a real child engaged in actual or simulated sexually explicit conduct;
 - 7.3. a person appearing to be a real child engaged in actual or simulated sexually explicit conduct; or
 - 7.4. realistic images of a non-existent child engaged in actual or simulated sexually explicit conduct.
8. Term "Prostitution" means offering or providing sexual services in exchange for payment, goods or services including, but not limited to, the discharge of an obligation to pay or the provision of goods or services including sexual services gratuitously or at a discount. It is irrelevant whether the payment, goods or services are given or promised to the person engaging in the sexual services or to a third person.

Article 229

Mistake of fact as to age of victim

1. For the purposes of the Chapter, a mistake as to the age of the victim who is under the age of sixteen (16) shall not be a mistake of fact under Article 25 of this Code if the perpetrator was negligent in making such mistake.
2. The perpetrator is not criminally liable because of a mistake of fact under Article 25 of this Code if he or she, for justifiable reasons, did not know and could not have known that the victim was under the age of sixteen (16).

Article 230

Rape

1. Whoever subjects another person to a sexual act without such person's consent shall be punished by imprisonment of two (2) to ten (10) years.
2. Whoever subjects another person to a sexual act by threatening to reveal a fact that would seriously harm the honor or reputation of such person or of a person closely connected to such person shall be punished by imprisonment of three (3) to ten (10) years
3. Whoever subjects another person to a sexual act in one or more of the following circumstances shall be punished by imprisonment of five (5) to ten (10) years:
 - 3.1. by serious threat or the threat of violence;
 - 3.2. by threat of an imminent danger to the life or body of such person or of another person; or
 - 3.3. by exploiting a situation in which the person is unprotected and where his or her security is in danger.
4. When the offense provided for in paragraph 1 or 2 of this Article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of five (5) to fifteen (15) years:
 - 4.1. the offense is preceded, accompanied or followed by an act of torture or inhumane treatment;
 - 4.2. the perpetrator uses force;

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- 4.3. the perpetrator causes grievous bodily injury or a serious disturbance to the mental or physical health of the person;
 - 4.4. the perpetrator uses or threatens to use a weapon or a dangerous instrument;
 - 4.5. the perpetrator intentionally causes the person to become intoxicated by alcohol, drugs or other substances;
 - 4.6. the offense is jointly committed by more than one person;
 - 4.7. the perpetrator knows that the person is exceptionally vulnerable because of age, diminished mental or physical capacity, physical or mental disorder or disability, or pregnancy;
 - 4.8. the perpetrator is the parent, adoptive parent, foster parent, step parent, grandparent, uncle, aunt or sibling of the person and such person is between the ages of sixteen (16) and eighteen (18) years;
 - 4.9. the perpetrator shares a domestic relationship with the person and such person is between the ages of sixteen (16) and eighteen (18) years;
 - 4.10. the perpetrator is a teacher, a religious leader, a health care professional, a person entrusted with such person's upbringing or care or otherwise in a position of authority over the person.
5. When the offense provided for in this Article results in the death of the victim, the perpetrator shall be punished by imprisonment of not less than ten (10) years or by life long imprisonment.

Article 231 **Sexual services of a victim of trafficking**

1. Whoever uses or procures the sexual services of a victim of trafficking shall be punished by imprisonment of three (3) months to five (5) years.
2. When the offense provided for in paragraph 1 of this article is committed against a person under the age of eighteen (18) years, the perpetrator shall be punished by imprisonment of two (2) to ten (10) years.
3. When the offense provided for in this Article is committed by an official person, abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of two (2) to seven (7) years in the case of the offense provided for in paragraph 1 or by imprisonment of five (5) to twelve (12) years in the case of the offense provided for in paragraph 2 of this Article.
4. If the offense in this Article results in death of one or more persons, the perpetrator shall be punished by not less than ten (10) years of imprisonment or life long imprisonment.
5. For the purposes of this Article it is irrelevant whether the perpetrator knew that the person was a victim of trafficking, unless for justifiable reasons, the perpetrator did not know and could not have known that the person was a victim of trafficking.
6. For the purposes of this Article "victim of trafficking" means a person who has been trafficked according to Article 171 of this Code.

Article 232
Sexual assault

1. Whoever touches a person for a sexual purpose or induces such person to touch the perpetrator or another person for a sexual purpose, without the consent of such person, shall be punished by a fine or by imprisonment of up to one (1) year.
2. Whoever touches another person for a sexual purpose or induces another person to touch the perpetrator or a third person for a sexual purpose in one of more of the following circumstances shall be punished by imprisonment of one (1) to seven (7) years:
 - 2.1. by serious threat or the threat of violence;
 - 2.2. by threat of an imminent danger to the life or body of such person or of another person; or
 - 2.3. by exploiting a situation in which such other person is unprotected and where his or her security is in danger.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of three (3) to ten (10) years:
 - 3.1. the offense is preceded, accompanied or followed by an act of torture or inhumane treatment;
 - 3.2. the perpetrator uses force;
 - 3.3. the perpetrator causes grievous bodily injury or serious disturbances to the mental or physical health of the person or the person attempts to commit suicide following the offense;
 - 3.4. the perpetrator uses or threatens to use a weapon or a dangerous instrument;
 - 3.5. the perpetrator intentionally causes the person to become intoxicated by alcohol, drugs or other substances;
 - 3.6. the offense is jointly committed by more than one person;
 - 3.7. the perpetrator knows that the person is exceptionally vulnerable because of age, diminished mental or physical capacity, physical or mental disorder, disability, or pregnancy;
 - 3.8. the perpetrator is the parent, adoptive parent, foster parent, step parent, grandparent, uncle, aunt or sibling of the person and such person is between the ages of sixteen (16) and eighteen (18) years;
 - 3.9. the perpetrator shares a domestic relationship with the person and such person is between the ages of sixteen (16) and eighteen (18) years; or
 - 3.10. the perpetrator is a teacher, a religious leader, a health care professional, a person entrusted with such person's upbringing or care or otherwise in a position of authority over the person.
4. When the offense provided for in paragraph 1 or 2 of this Article results in the death of the victim, the perpetrator shall be punished by imprisonment of not less than ten (10) years or by life long imprisonment.

Article 233
Degradation of sexual integrity

1. Whoever induces another person to expose the private parts of such person's body, to masturbate or to commit another act that degrades such person's sexual integrity, without the consent of such person, shall be punished by a fine or by imprisonment of six (6) months to one (1) year.
2. Whoever induces another person to expose the private parts of such person's body, to masturbate or to commit another act that degrades such person's sexual integrity in one of more of the following circumstances shall be punished by imprisonment of six (6) months to three (3) years:
 - 2.1. by serious threat or the threat of violence;
 - 2.2. by threat of an imminent danger to the life or body of the such person or of another person; or
 - 2.3. by exploiting a situation in which the person is unprotected and where his or her security is in danger.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of one (1) to ten (10) years:
 - 3.1. the offense is preceded, accompanied or followed by an act of torture or inhumane treatment;
 - 3.2. the perpetrator uses force;
 - 3.3. the perpetrator causes grievous bodily injury or serious disturbances to the mental or physical health of the person or the person attempts to commit suicide following the offense;
 - 3.4. the perpetrator uses or threatens to use a weapon or a dangerous instrument;
 - 3.5. the perpetrator intentionally causes the person to become intoxicated by alcohol, drugs or other substances;
 - 3.6. the offense is jointly committed by more than one person;
 - 3.7. the perpetrator knows that the person is vulnerable because of age, physical or mental disorder or disability, or pregnancy;
 - 3.8. the perpetrator is the parent, adoptive parent, foster parent, step parent, grandparent, uncle, aunt or sibling of the person and such person is between the ages of sixteen (16) to eighteen (18) years;
 - 3.9. the perpetrator shares a domestic relationship with the person and such person is between the ages of sixteen (16) to eighteen (18) years; or
 - 3.10. the perpetrator is a teacher, a religious leader, a health care professional, a person entrusted with such person's upbringing or care or otherwise in a position of authority over the person.
4. An attempt to commit the offense provided for in paragraph 1. of this Article shall be punishable.

Article 234
Sexual abuse of persons with mental or emotional disorders or disabilities

1. Whoever subjects a person who suffers from diminished mental or physical capacity or a mental or emotional disorder or disability, to a sexual act with the

- perpetrator or a third person by exploiting such person's diminished capacity, disorder or disability shall be punished by imprisonment of one (1) to ten (10) years.
2. Whoever touches for a sexual purpose a person with diminished mental or physical capacity, or a mental or emotional disorder or disability or induces such person to touch the perpetrator or a third person for a sexual purpose by exploiting such person's diminished capacity, disorder or disability shall be punished by imprisonment of six (6) months up to five (5) years.
 3. Whoever induces a person with diminished mental or physical capacity, or a mental or emotional disorder or disability to expose private parts of his or her body, to masturbate or to commit an act which degrades his or her sexual integrity by exploiting such person's diminished capacity, disorder or disability shall be punished by imprisonment of up to one (1) year.
 4. When the offense provided for in paragraph 1, 2 or 3 of this Article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of three to fifteen (15) years in the case of the offense provided for in paragraph 1 or 2, or by imprisonment of up to three (3) years in the case of the offense provided for in paragraph 3 of this Article:
 - 4.1. the offense is preceded, accompanied or followed by an act of torture or inhumane treatment;
 - 4.2. the perpetrator uses force;
 - 4.3. the perpetrator causes grievous bodily injury or serious disturbance to the mental or physical health of the person or the person attempts to commit suicide following the offense;
 - 4.4. the perpetrator uses or threatens to use a weapon or a dangerous instrument;
 - 4.5. the perpetrator intentionally causes the person to become intoxicated by alcohol, drugs or other substances;
 - 4.6. the offense is jointly committed by more than one person;
 - 4.7. the perpetrator knows that the person is vulnerable because of age or pregnancy;
 - 4.8. The perpetrator is the parent, adoptive parent, foster parent, step parent, grandparent, uncle, aunt or sibling of the person and such person is between the ages of sixteen (16) and eighteen (18) years;
 - 4.9. the perpetrator shares a domestic relationship with the person and such person is between the ages of sixteen (16) and eighteen (18) years; or
 - 4.10. the perpetrator is a teacher, a religious leader, a health care professional, a person entrusted with such person's upbringing or care or otherwise in a position of authority over the person.
 5. When the offense provided for in paragraph 1-4 of this Article results in the death of the person, the perpetrator shall be punished by imprisonment of not less than ten (10) years or by life long imprisonment.
 6. An attempt to commit a criminal offense provided for in paragraph 3 of this Article shall be punishable.

Article 235

Sexual abuse of persons under the age of sixteen (16) years

1. Whoever subjects a person under the age of sixteen (16) years to the following offenses shall be punished as set forth below:
 - 1.1. the perpetrator who commits the offense of rape in violation of Article 230 of this Code involving a person under the age of sixteen (16) shall be punished by imprisonment of five (5) to twenty (20) years.
 - 1.2. the perpetrator who commits the offense of a using the sexual services of a victim of trafficking in violation of Article 231 of this Code involving a person under the age of sixteen (16) shall be punished by imprisonment of five (5) to twenty (20) years.
 - 1.3. the perpetrator who commits the offense of sexual assault in violation of Article 232 of this Code involving a person under the age of sixteen (16) shall be punished by imprisonment of five (5) to ten (10) years.
 - 1.4. the perpetrator who commits the offense of degradation of sexual integrity in violation of Article 233 of this Code involving a person under the age of sixteen (16) shall be punished by imprisonment of one (1) to five (5) years.
2. Whoever subjects a person under the age of fourteen (14) to the following offenses shall be punished as set forth below:
 - 2.1. the perpetrator who commits the offense of rape in violation of Article 230 of this Code involving a person under the age of fourteen (14) shall be punished by imprisonment of at least ten (10) years.
 - 2.2. the perpetrator who commits the offense of a using the sexual services of a victim of trafficking in violation of Article 231 of this Code involving a person under the age of fourteen (14) shall be punished by imprisonment of at least ten (10) years.
 - 2.3. the perpetrator who commits the offense of sexual assault in violation of Article 232 of this Code involving a person under the age of fourteen (14) shall be punished by imprisonment of ten (10) to twenty (20) years.
 - 2.4. the perpetrator who commits the offense of degradation of sexual integrity in violation of Article 233 of this Code involving a person under the age of fourteen (14) shall be punished by imprisonment of two (2) to ten (10) years.
3. When the act provided for in paragraph 1 of this Article is committed with the agreement of two (2) persons who have reached the age of fourteen (14) years and where difference in their ages does not exceed two (2) years, such act shall not constitute a criminal offense.
4. When the offense provided for in paragraph 1, 2 or 3 of this Article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of at least fifteen (15) years:
 - 4.1. the offense is preceded, accompanied or followed by an act of torture or inhumane treatment;
 - 4.2. the perpetrator uses force;
 - 4.3. the perpetrator causes grievous bodily injury or serious disturbance to the mental or physical health of the person or the person attempts to commit suicide following the offense;

- 4.4. the perpetrator uses or threatens to use a weapon or a dangerous instrument;
 - 4.5. the perpetrator intentionally causes the person to become intoxicated by alcohol, drugs or other substances;
 - 4.6. the offense is jointly committed by more than one person;
 - 4.7. the perpetrator knows that the person is vulnerable because of age, physical or mental disorder or disability or pregnancy;
 - 4.8. the perpetrator is the parent, adoptive parent, foster parent, step parent, grandparent, uncle, aunt or sibling of the person or the perpetrator shares a domestic relationship with the person between the age of sixteen (16) and eighteen (18); or
 - 4.9. the perpetrator is a teacher, a religious leader, a health care professional, a person entrusted with such person's upbringing or care or otherwise in a position of authority over the person.
5. When the offense provided for in paragraph 1 or 2 of this Article results in the death of the victim, the perpetrator shall be punished by imprisonment of at least twenty (20) years or by long term imprisonment.

Article 236

Inducing sexual acts, touching or activity by persons under the age of sixteen years

1. Whoever brokers, provides or creates an opportunity for a person under the age of sixteen (16) years to commit a sexual act with a third person who has reached the age of eighteen (18) years shall be punished by imprisonment of two (2) to ten (10) years.
2. Whoever brokers, provides or creates an opportunity for a person under the age of sixteen (16) years to touch a third person who has reached the age of eighteen (18) years for a sexual purpose or to allow a third person who has reached the age of eighteen (18) years to touch a person under the age of sixteen (16) years for a sexual purpose shall be punished by imprisonment of one (1) to five (5) years.
3. Whoever persuades, induces, entices or coerces a person under the age of sixteen (16) years to engage in any sexual activity for which any person may be charged with a criminal offense shall be punished by at least five (5) years.
4. Whoever brokers, provides or creates an opportunity for a person under the age of fourteen (14) years to commit a sexual act with a third person who has reached the age of eighteen (18) years shall be punished by imprisonment of five (5) to ten (10) years.
5. Whoever brokers, provides or creates an opportunity for a person under the age of fourteen (14) years to touch a third person who has reached the age of eighteen (18) years for a sexual purpose or to allow a third person who has reached the age of eighteen (18) years to touch a person under the age of fourteen (14) years for a sexual purpose shall be punished by imprisonment of two (2) to ten (10) years.
6. Whoever persuades, induces, entices or coerces a person under the age of fourteen (14) years to engage in any sexual activity for which any person may be charged with a criminal offense shall be punished by imprisonment of three (3) to fifteen (15) years.

Article 237

Offering pornographic material to persons under the age of sixteen (16) years

1. Whoever sells, offers to sell, shows or in any other way provides a person under the age of sixteen (16) years with photographs, audio-visual material or other objects with pornographic content or allows such person to attend a live performance with pornographic content or intentionally brings such person to such a performance shall be punished by a fine and imprisonment of three (3) months to three (3) years.
2. The pornographic material from paragraph 1 of this Article shall be confiscated.

Article 238

Abuse of children in pornography

1. Whoever produces child pornography or uses or involves a child in making or producing live performances shall be punished by imprisonment of one (1) to five (5) years.
2. Whoever sells, distributes, promotes, displays, transmits, offers or makes available child pornography shall be punished by imprisonment of six (6) months to five (5) years.
3. Whoever procures for himself or herself or for another person or possesses child pornography shall be punished by a fine or by imprisonment of up to three (3) years.
4. An attempt to commit a criminal offense in this Article shall be punishable.
5. For the purpose of this article “live performance” includes the live exhibition, including by means of information and communication technology, of:
 - 5.1. a child engaged in real or simulated sexually explicit conduct; or
 - 5.2. of the sexual organs of a child for primarily sexual purposes.

Article 239

Sexual abuse by abusing position, authority or profession

1. Except as otherwise provided for in this Chapter, whoever subjects another person to a sexual act in one or more of the following circumstances shall be punished by imprisonment of one (1) to five (5) years:
 - 1.1. by abusing his or her control over the financial, family, social, health, employment, educational, religious or other circumstances of such person or a third person;
 - 1.2. where the victim is held in prison, pre-trial detention, a disciplinary centre, has been committed to an educational institution or educational-correctional institution, is a patient at a hospital, mental health or rehabilitation facility, a resident of a residential care home or shelter, or is held in or confined to any other place by an order of the court or prosecutor or under a law; or
 - 1.3. by abusing his or her position or authority over a victim who is between the ages of sixteen (16) and eighteen (18) years and who is entrusted to the perpetrator for upbringing, education or care.
2. Whoever touches another person for a sexual purpose or induces another person to

touch the perpetrator or a third person for a sexual purpose in one or more of the following circumstances shall be punished by imprisonment of six (6) months to three (3) years:

- 2.1. by abusing his or her control over the financial, family, social, health, employment, educational, religious or other circumstances of such person or a third person;
 - 2.2. where the victim is held in prison, pre-trial detention, a disciplinary centre, has been committed to an educational institution or educational-correctional institution, is a patient at a hospital, mental health or rehabilitation facility, a resident of a residential care home or shelter, or is held in or confined to any other place by an order of the court or prosecutor or under a law; or
 - 2.3. by abusing his or her position or authority over a victim who is between the ages of sixteen (16) and eighteen (18) years and who is entrusted to the perpetrator for upbringing, education or care.
3. Whoever induces another person to expose the private parts of such person's body, to masturbate or to commit another act which degrades such person's sexual integrity in one or more of the following circumstances shall be punished by six (6) months to five (5) years:
- 3.1. by abusing his or her control over the financial, family, social, health, employment, educational, religious or other circumstances of such person or a third person;
 - 3.2. where the victim is held in prison, pre-trial detention, a disciplinary centre, has been committed to an educational institution or educational-correctional institution, is a patient at a hospital, mental health or rehabilitation facility, a resident of a residential care home or shelter, or is held in or confined to any other place by an order of the court or prosecutor or under a law; or
 - 3.3. by abusing his or her position or authority over a victim who is between the ages of sixteen (16) and eighteen (18) years and who is entrusted to the perpetrator for upbringing, education or care.

Article 240

Inducing sexual acts by false promise of marriage

Whoever deceptively and falsely promises marriage in order to induce a person who is between the ages of sixteen (16) to eighteen (18) years to engage in a sexual act shall be punished by a fine or imprisonment of up to three (3) years.

Article 241

Facilitating or compelling prostitution

1. Whoever recruits, organizes, assists or controls another person for the purpose of prostitution shall be punished by a fine and imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed within a three hundred and fifty (350) meter radius of a school or other locality which is used by children, the perpetrator shall be punished by a fine and imprisonment of six (6) months to five (5) years.
3. Whoever, by force or serious threat, or by holding another person in a situation of

personal or economic dependency compels such person to engage in prostitution shall be punished by a fine and imprisonment from one (1) to eight (8) years.

4. When the offense provided for in paragraph 1, 2 or 3 of this Article is committed against a person between the ages of sixteen (16) and eighteen (18) years, the perpetrator shall be punished by a fine and imprisonment of one (1) to ten (10) years.
5. When the offense provided for in paragraph 1, 2 or 3 of this Article is committed against a person under the age of sixteen (16) years, the perpetrator shall be punished by a fine and imprisonment of five (5) to twenty (20) years.
6. When the offense provided for in paragraph 1, 2 or 3 of this Article is committed against a person under the age of fourteen (14) years, the perpetrator shall be punished by a fine and imprisonment of at least ten (10) years.

Article 242

Providing premises for prostitution

1. Whoever knowingly provides premises, whether as the owner of the premises, the landlord, the tenant, the occupier or person in charge, to another person for the purpose of prostitution or the facilitation of prostitution shall be punished by a fine and by imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed within a three hundred fifty (350) meter radius of a school or other locality which is used by children, the perpetrator shall be punished by a fine and imprisonment of six (6) months to five (5) years.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed for the purpose of prostitution or the facilitation of prostitution of one or more persons between the ages of sixteen (16) and eighteen (18) years, the perpetrator shall be punished by a fine and imprisonment of one (1) to ten (10) years.
4. When the offense provided for in paragraph 1 or 2 of this Article is committed for the purpose of prostitution or the facilitation of prostitution of one or more persons under the age of sixteen (16) years, the perpetrator shall be punished by a fine and imprisonment of five (5) to twenty (20) years.
5. When the offense provided for in paragraph 1 or 2 of this Article is committed for the purpose of prostitution or the facilitation of prostitution of one or more persons under the age of fourteen (14) years, the perpetrator shall be punished by a fine and imprisonment of at least ten (10) years.
6. For the purpose of this article, "facilitation of prostitution" includes but is not limited to recruiting, organizing, assisting, controlling, holding or hiding another person for the purpose of prostitution.

Article 243

Sexual relations within the family

1. Whoever engages in a sexual act with a family ascendant or a descendant who has reached the age of eighteen (18) years or a sibling who has reached the age of eighteen (18) years shall be punished by a fine or by imprisonment of three (3) months to three (3) years.

2. A parent, adoptive parent, foster parent, step-parent, grandparent, uncle or aunt who engages in a sexual act with his or her child, foster child, step-child, grandchild, nephew or niece who is between the ages of sixteen (16) and eighteen (18) years shall be punished by imprisonment of at least three (3) years.
3. A parent, adoptive parent, foster parent, step-parent, grandparent, uncle or aunt who engages in a sexual act with his or her child, foster child, step-child, grandchild, nephew or niece who is between the ages of fourteen (14) and sixteen (16) shall be punished by imprisonment of at least five (5) years.
4. A parent, adoptive parent, foster parent, step-parent, grandparent, uncle or aunt who engages in a sexual act with his or her child, foster child, step-child, grandchild, nephew or niece who under the age of fourteen (14) shall be punished by imprisonment of at least ten (10) years.
5. When an older sibling engages in a sexual act with a sibling, adoptive sibling, stepsibling or foster sibling who is between the ages of sixteen (16) and eighteen (18) years, the older sibling shall be punished as provided for in paragraph 2 of this Article.
6. When an older sibling engages in a sexual act with a sibling, adoptive sibling, stepsibling or foster sibling who is between the ages of fourteen (14) and sixteen (16) years, the older sibling shall be punished as provided for in paragraph 3 of this Article.
7. When an older sibling engages in a sexual act with a sibling, adoptive sibling, stepsibling or foster sibling who under the age of fourteen (14) years, the older sibling shall be punished as provided for in paragraph 4 of this Article.

CHAPTER XXI CRIMINAL OFFENSES AGAINST MARRIAGE AND FAMILY

Article 244 Bigamy

1. Whoever, being already married, enters into another marriage shall be punished by imprisonment of up to one (1) year.
2. Whoever enters into a marriage with a person whom he or she knows to be already married shall be punished as provided for in paragraph 1 of this Article.
3. When, subsequent to the commission of the offense provided for in this Article, the previous marriage has invalidated, annulled or terminated, the prosecution for the offense shall not be initiated and if it has been already initiated, it shall be terminated.

Article 245 Enabling unlawful marriages to take effect

An authorized official person before whom a marriage takes effect who, in abusing his or her position or authorizations, permits a marriage to take effect despite having knowledge of legal impediments which prohibit the marriage shall be punished by imprisonment of three (3) months to three (3) years.

Article 246
Forced marriage

1. Whoever compels another person to enter into a marriage or enters into a marriage with a person whom he or she knows to be compelled into the marriage shall be punished by imprisonment one (1) to eight (8) years.
2. When the offense provided for in paragraph 1 of this Article is committed by a parent, an adoptive parent, guardian or another person exercising parental authority over a person between the ages of fourteen (14) and sixteen (16), the perpetrator shall be punished by imprisonment of five (5) to ten (10) years.
3. When the offense provided for in paragraph 1 of this Article is committed by a parent, an adoptive parent, guardian or another person exercising parental authority over a person under the age of fourteen (14), the perpetrator shall be punished by imprisonment of at least fifteen (15) years.
4. When the offense provided for in paragraph 1 of this Article is committed with the purpose of obtaining a material benefit, the perpetrator shall be punished by a fine and imprisonment of at least five (5) years. When the offense provided for in paragraphs 2 or 3 of this Article is committed with the purpose of obtaining a material benefit, the perpetrator shall be punished by a fine and imprisonment of at least fifteen (15) years.

Article 247
Extramarital community with a person under the age of sixteen (16)

1. An adult who cohabits in extramarital community with a person between the ages of fourteen (14) and sixteen (16) years shall be punished by imprisonment of five (5) to twenty (20) years.
2. A parent, an adoptive parent, guardian or another person exercising parental authority who permits or induces a person between the ages of fourteen (14) and sixteen (16) years to cohabit in extramarital community with another person shall be punished by imprisonment of five (5) to twenty (20) years.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed against a person under the age of fourteen (14) years, the perpetrator shall be punished by imprisonment of at least fifteen (15) years.
4. When the offense provided for in paragraph 2 or 3 of this Article is committed with the purpose of obtaining a material benefit, the perpetrator shall be punished by a fine and imprisonment of at least fifteen (15) years.

Article 248
Changing the family status of a child

Whoever substitutes one child for another or otherwise alters his or her family status except as permitted by law shall be punished by imprisonment of three (3) months to three (3) years.

Article 249

Unlawful taking or keeping of a child

1. Whoever unlawfully takes, keeps or abducts a child from a parent, an adoptive parent, a guardian or another person who exercises parental rights over the child or takes, keeps or abducts a child from an institution to which the child has been entrusted or prevents the execution of a binding decision by a competent authority for entrusting the child to another person or institution shall be punished by imprisonment up to three (3) years.
2. When the perpetrator of the criminal offense provided for in paragraph 1 of this Article is a parent, an adoptive parent, a guardian or another person who exercised parental rights over the child against whom a competent authority has imposed a binding decision to deprive such person of his or her parental or guardian rights to the child or when a competent authority has imposed a binding decision to entrust the education or supervision of the child to the other parent or another person, the perpetrator shall be punished by imprisonment up to one (1) year.
3. Whoever commits the offense provided for in paragraph 1 of this Article for material gain or other base motives shall be punished by a fine and imprisonment of one (1) to ten (10) years.
4. When the perpetrator of the criminal offense in paragraph 2 of this Article voluntarily returns the child, the court may waive the punishment.

Article 250

Mistreating or abandoning a child

1. A parent, adoptive parent, guardian or another person exercising parental authority over a child who mistreats such child using physical or mental measures or violates his or her obligation to care for and educate the child shall be punished by imprisonment of six (6) months to three (3) years.
2. A parent, adoptive parent, guardian or another person exercising parental authority over a child who mistreats such child using physical or mental measures or violates his or her obligation to care for and educate the child by conscious negligence shall be punished by imprisonment of three (3) months to three (3) years.
3. A parent, adoptive parent, guardian or another person exercising parental authority over a child who abandons such child in a manner which endangers his or her life or endangers or seriously impairs his or her health shall be punished by imprisonment of one (1) to five (5) years.
4. A parent, adoptive parent, guardian or another person exercising parental authority over a child who compels such child to work excessively or to perform work that is not suitable for the age of the child or compels such child to beg for money or other material gain, or compels such child to engage in other activities that endanger or damage the child's development shall be punished by a fine and imprisonment of one (1) to five (5) years.
5. When an offense provided for in this Article results in grievous bodily injury or grievous damage to the mental health of a child, the perpetrator shall be punished by imprisonment of two (2) to eight (8) years.

Article 251
Violating family obligations

1. Whoever violates his or her legal family obligations leaving a family member who is incapable taking care of himself or herself shall be punished by imprisonment of three (3) months to three (3) years.
2. When the offense provided for in paragraph 1 of this Article involves a child, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years
3. When the offense provided for in paragraph 1 of this Article results in the death of the family member or serious impairment to his or her health, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
4. If the court imposes a suspended sentence, it may order, as a condition, that the perpetrator pay and regularly fulfill his or her obligations of care, education and maintenance support.

Article 252
Avoiding maintenance support

1. Whoever fails to provide maintenance support to a person whom he or she is obliged to support based on a decision of the court which has entered into force, a settlement concluded before the court which has entered into force or a decision by another competent authority by avoiding employment, falsely reporting employment or income, changing jobs, place of residence or abode, alienating property or otherwise failing to provide subsistence support to such person shall be punished by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article results in the death of the family member or serious impairment to his or her health, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
3. When the offense provided for in paragraph 1 of this Article involves a child, the perpetrator shall be punished by imprisonment of three (3) months to three (3) years.
4. If the court imposes a suspended sentence, it may order, as a condition, that the perpetrator pay and regularly fulfill his or her obligations for maintenance support and unpaid obligations.
5. If the perpetrator of the offense provided for in paragraph 1 of this Article fulfils the obligation before the imposition of the judgment of the court, the court may waive the punishment.

Article 253
Prevention and non-execution of measures for protecting children

1. Whoever fails to follow or prevents the execution of any educational measures and other measures prescribed by the court or other competent authority in charge of protecting children shall be punished by a fine or by imprisonment of up to one (1) year.
2. Whoever, as the responsible person on duty in a body or institution for the

protection, education or vocational training of children, exercises his or her duties in an irresponsible manner, thereby severely endangering or impairing the health or development of a child shall be punished by a fine or by imprisonment of up to three (3) years.

Article 254

Failure to report child abuse

1. Notwithstanding other provisions of law, whoever has reason to suspect that a child has suffered an incident of child abuse, mistreatment, abandonment or neglect, and fails to immediately report the abuse or neglect shall be punished by a fine or imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed by a parent, an adoptive parent or guardian shall be punished by imprisonment of six (6) months to three (3) years.
3. Whoever while engaged in a professional capacity related to the child, has reason to suspect that a child has suffered an incident of child abuse, mistreatment, abandonment or neglect or has been subjected to violence or a threat of violence and fails to immediately report it, shall be punished a fine or imprisonment of three (3) months to three (3) years.
4. When the offense provided for in paragraphs 1, 2, or 3 of this Article results in the death of the child or serious impairment to his or her health, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

CHAPTER XXII

CRIMINAL OFFENSES AGAINST PUBLIC HEALTH

Article 255

Transmitting contagious diseases

1. Whoever fails to comply with the provisions or orders of the competent public entity in the field of health aimed at preventing or fighting contagious diseases among people or animals and thereby causes the transmission of a contagious disease among people shall be punished by a fine or imprisonment up to three (3) years.
2. Whoever fails to comply with the provisions or orders provided for in the paragraph 1 of this Article and thereby causes the transmission of a contagious disease among animals shall be punished by a fine or by imprisonment of up to one (1) year.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to six (6) months.
4. When the offense provided for in paragraph 1 and 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to twelve (12) years.
5. When the offense provided for in paragraph 1 or 2 of this Article results in

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grievous bodily injury or serious impairment to health the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

6. When the offense provided for in paragraph 3 of this Article results in grievous bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of up to three (3) years.
7. When the offense provided for in paragraph 3 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 256

Failure to comply with health provisions during an epidemic

Whoever during an epidemic of a contagious disease fails to comply with orders or other decisions issued on the basis of provisions of the competent authority which establishes measures aimed at fighting or preventing the disease shall be punished by imprisonment of up to two (2) years.

Article 257

Transmitting venereal diseases

1. Whoever, knowing that he or she is infected with a sexually transmitted disease, fails to disclose this fact and infects another person, shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article results in the serious impairment to another's health, the perpetrator shall be punished by imprisonment of one (1) to five (5) years.
3. When the offense provided for in paragraph 1 of this Article results in the death of a person, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
4. Criminal proceedings for the offense provided for in this Article shall be initiated by a motion.

Article 258

Spreading the HIV virus

1. Whoever, knowing that he or she is infected with HIV, fails to disclose this fact and infects another person, shall be punished by imprisonment of two (2) to twelve (12) years.
2. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
3. When the offense provided for in paragraph 1 of this Article results in the death of a person, the perpetrator shall be punished by imprisonment of five (5) to fifteen (15) years.
4. When the offense provided for in paragraph 2 of this Article results in the death of a person, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 259

Employing persons infected by contagious diseases

1. Whoever, contrary to health laws, in a hospital, maternity hospital, school, restaurant, a store where food items are processed or hygienic services are carried out or in a similar business organization or workplace, employs or continues to employ a person whom he or she knows to be suffering from a contagious disease and thereby causes the transmission of the contagious disease shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to six (6) months.
3. When the offense provided for in paragraph 1 of this Article results in the serious impairment to another's health, the perpetrator shall be punished by imprisonment of six (6) months to three (3) years.
4. When the offense provided for in paragraph 2 of this Article results in the serious impairment to another's health, the perpetrator shall be punished by imprisonment of up to three (3) years.
5. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to ten (10) years.
6. When the offense provided for in paragraph 2 of this Article results in the death of one or more persons, perpetrator shall be punished by one (1) to five (5) years.

Article 260

Irresponsible medical treatment

1. A physician who, when providing medical assistance, uses obviously inappropriate means or an incorrect method of treatment or fails to use appropriate hygienic measures and thereby causes the deterioration in the condition of a person shall be punished by imprisonment of up to three (3) years.
2. A health care worker who, when providing medical assistance, uses obviously inappropriate means or an incorrect method of treatment or fails to use appropriate hygienic measures and thereby causes the deterioration in the condition of a person shall be punished as provided for in paragraph 1 of this Article.
3. When the offense provided for in paragraph 1 or 2 of this Article results in any serious impairment to the health of a person, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
4. When the offense provided for in paragraph 1 or 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to twelve (12) years.

Article 261

Failure to provide medical assistance

1. A physician or another medical person, who contrary to his or her duty refuses to provide medical assistance to a person in need of such assistance even though he or

she is aware or should be aware that such omission may result in grievous bodily injury or serious impairment to the health of the person or death, shall be punished by imprisonment up to three (3) years.

2. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury or any serious impairment to the health of the person who did not receive medical assistance, the perpetrator shall be punished by imprisonment of three (3) months to three (3) years.
3. When the offense provided for in paragraph 1 of this Article results in the death of the person who did not receive medical assistance, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 262

Unlawful exercise of medical or pharmaceutical activity

1. Whoever, without possessing professional qualifications or legal authorization, carries out medical treatment, pharmaceutical services or engages in some other medical activity for which specific qualifications are required by law shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury or any serious impairment to the health of a person, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
3. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to twelve (12) years.

Article 263

Unlawful medical experiments and testing of the drugs

1. Whoever, without authorization or in contravention of applicable law, conducts medical experiments, human cloning experiments or similar experiments on humans shall be punished by imprisonment of three (3) months to five (5) years.
2. Whoever without authorization or in contravention of applicable law, conducts clinical testing of drugs, shall be punished by imprisonment from three (3) months to three (3) years.

Article 264

Irresponsible preparation and dispensing of drugs

1. A pharmacist or another person authorized to prepare or distribute drugs who prepares a drug contrary to professional standards or dispenses drugs incorrectly and thereby endangers the health or the life of a person shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to six (6) months.
3. When the offense provided for in paragraph 1 of this Article results in grievous

- bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
4. When the offense provided for in paragraph 2 of this Article results in grievous bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of up to three (3) years.
 5. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to twelve (12) years.
 6. When the offense provided for in paragraph 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
 7. The prepared drugs from paragraph 1 of this Article shall be confiscated.

Article 265

Unlawful transplantation and trafficking of human organs and tissues

1. Whoever without a medical reason, without authorization or in contravention of applicable law takes with the purpose for transplantation parts of human body with the consent of the donor, shall be punished by a fine and imprisonment of six (6) months to five (5) years.
2. Whoever without a medical reason, without authorization or in contravention of applicable law transplants parts of human body with the consent of the receiver, shall be punished by a fine or by imprisonment of up to three (3) years.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed without the consent of the donor or the consent of the receiver, the perpetrator shall be punished by a fine and by imprisonment of one (1) to eight (8) years.
4. Whoever without authorization or in contravention of applicable law with the purpose for transplantation takes body parts of a deceased person shall be punished by a fine or by imprisonment of up to three (3) years.
5. Whoever, without authorization or in contravention of applicable law, possesses, purchases, solicits for purchase, sells, transports, imports or exports a human organ or tissue for purposes of transplantation shall be punished by a fine and imprisonment of two (2) to twelve (12) years.
6. Whoever for a reward or other gain acts as an intermediary to obtain a body or body parts of another living or deceased person with the purpose of transplantation, shall be punished by a fine or by imprisonment of six (6) months up to two (2) years.
7. If the offense provided for in paragraphs 1 or 2 of this Article is committed by a physician, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
8. If the offense provided for in paragraph 3 of this Article is committed by a physician, the perpetrator shall be punished by imprisonment of three (3) to twelve (12) years.

Article 266
Production and distribution of tainted medical products

1. Whoever produces counterfeit or tainted drugs or other medical products which are harmful to health with the purpose of selling them or otherwise putting them into circulation shall be punished by a fine and imprisonment of up to three (3) years.
2. Whoever puts into circulation drugs or medical products without undertaking the necessary control by an authorized person or entity, or circulates the items after their expiry date, shall be punished by imprisonment of up to three (3) years.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed by negligence, the perpetrator shall be punished by a fine and imprisonment of up to two (2) years.
4. When the offense provided for in paragraph 1 or 2 of this Article results in grievous bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
5. When the offense provided for in paragraph 3 of this Article results in grievous bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of up to three (3) years.
6. When the offense provided for in paragraph 1 or 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to twelve (12) years.
7. When the offense provided for in paragraph 3 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
8. The medical products and the means for production shall be confiscated.

Article 267
Production and circulation of harmful food items

1. Whoever produces with the intent to sell, sells, offers for sale or in any other manner puts into circulation food items, drinks or other products which the perpetrator knows to be harmful to people's health shall be punished by a fine and imprisonment of three (3) months to three (3) years.
2. Whoever puts into circulation foods or drinks without undertaking the necessary control by an authorized person or entity, or circulates the items after their expiry date, shall be punished by imprisonment of up to two (2) years.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to six (6) months.
4. When the offense provided for in paragraph 1 or 2 of this Article results in grievous bodily injury or any serious impairment to the health of any person, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
5. When the offense provided for in paragraph 3 of this Article results in grievous bodily injury or any serious impairment to the health of any person, the perpetrator shall be punished imprisonment of six (6) months to five (5) years.
6. When the offense provided for in paragraph 1 or 2 of this Article results in the

death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to twelve (12) years.

7. When the offense provided for in paragraph 3 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
8. The harmful articles and objects shall be confiscated.

Article 268

Irresponsible inspection of animal products destined for consumption

1. The veterinarian or the authorized person who, during the inspection of animals destined to be butchered or of meat destined for consumption, acts contrary to professional standards or in violation of the applicable provisions on standards of veterinary practice or does not carry out the inspection and thereby enables the circulation of meat and other articles harmful to people's health shall be punished by imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.
3. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury or any serious impairment to the health of a person, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
4. When the offense provided for in paragraph 2 of this Article results in grievous bodily injury or any serious impairment to the health of a person, the perpetrator shall be punished by imprisonment of up to three (3) years.
5. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to twelve (12) years.
6. When the offense provided for in paragraph 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment by imprisonment of one (1) to eight (8) years.

Article 269

Giving or using false certificates of physicians or veterinarians

1. A physician who issues a false medical certificate or a veterinarian who issues a false veterinary certificate even though he or she knows it to be false shall be punished by a fine or by imprisonment of up to one (1) year.
2. Whoever uses a false medical certificate or veterinary certificate even though he or she knows it to be false shall be punished by a fine or by imprisonment of up to six (6) months.

Article 270

Pollution of drinking water

1. Whoever by means of any noxious substance pollutes water used by people for drinking purposes and in this way endangers human life or health shall be punished

- by imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.
 3. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of up to eight (8) years.
 4. When the offense provided for in paragraph 2 of this Article results in grievous bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of up to three (3) years.
 5. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to twelve (12) years
 6. When the offense provided for in paragraph 2 of this Article results death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 271

Pollution of food products used by people or animals

1. Whoever pollutes food products used for people or animals with any noxious substance, and thereby endangers human life or health shall be punished by imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.
3. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury or serious impairment of health to one or more persons, the perpetrator shall be punished by imprisonment of up to eight (8) years.
4. When the offense provided for in paragraph 2 of this Article results in grievous bodily injury or serious impairment of health to one or more persons, the perpetrator shall be punished by imprisonment of up to three (3) years.
5. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of not less than ten (10) years.
6. When the offense provided for in paragraph 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
7. Whoever pollutes with any noxious substance the food of animals which are destined for human consumption and thereby endangers human life or health shall be punished by a fine or by imprisonment of three (3) months to one (1) year.
8. When the offense provided for in paragraph 5 of this Article results in the death of animals of a value exceeding five thousand (5,000) EUR or the death of a large number of animals, the perpetrator shall be punished by imprisonment of up to three (3) years.

Article 272

Serving alcoholic beverages to persons under the age of sixteen years

1. Whoever, in a hotel, bar or any other store in which alcoholic beverages are sold, serves alcoholic beverages to a person under the age of sixteen (16) years shall be punished by a fine or by imprisonment of up to six (6) months.
2. When the criminal offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to three (3) months.

CHAPTER XXIII

NARCOTIC DRUG OFFENSES

Article 273

Unauthorised purchase, possession, distribution and sale of narcotic drugs, psychotropic substances and analogues

1. Whoever, without authorization purchases, possesses with the intent to sell or distribute or offers for sale substances or preparations which have been declared by law to be narcotic drugs, psychotropic substances or analogues shall be punished by a fine and by imprisonment of two (2) to eight (8) years.
2. Whoever, without authorization, distributes, sells, transports, delivers, brokers, dispatches or dispatches in transit substances or preparations which have been declared by law to be narcotic drugs, psychotropic substances or analogues, with the intent that that they shall be distributed, sold or offered for sale shall be punished by a fine and by imprisonment of two (2) to twelve (12) years.
3. Whoever, without authorization, exports or imports substances or preparations which have been declared by law to be narcotic drugs, psychotropic substances or analogues, shall be punished by a fine and by imprisonment of three (3) to ten (10) years.
4. For the purpose of this Chapter, the term “analogue” means any substance which is not otherwise authorized and whose chemical structure is substantially similar to that of substances or preparations which have been declared to be narcotic drugs or psychotropic substances and whose effects it reproduces.
5. The narcotic drugs, psychotropic substances or analogues and the means for their production, distribution or transportation shall be confiscated.

Article 274

Unauthorized production and processing of narcotic drugs, psychotropic substances, analogues or narcotic drug paraphernalia, equipment or materials

1. Whoever, without authorization, produces, manufactures, cultivates, processes, extracts or prepares substances or preparations which have been declared to be narcotic drugs or psychotropic substances shall be punished by a fine and by imprisonment of one (1) to ten (10) years.
2. Whoever, without authorization, produces, manufactures, processes, sells or offers

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for sale an analogue shall be punished by a fine and by imprisonment of six (6) months to three (3) years.

3. Whoever manufactures, transports or distributes precursors, knowing that they are to be used in or for the unauthorized production or manufacture of narcotic drugs or psychotropic substances, shall be punished by imprisonment of two (2) to ten (10) years.
4. Whoever, without authorization, manufactures, transports, distributes, sells or supplies narcotic drug paraphernalia, equipment or materials with the knowledge that they have been used or they will be used for the unauthorized cultivation, production, processing, trafficking or use of any substance or preparation which has been declared to be a narcotic drug, psychotropic substance or analogue, shall be punished by a fine and by imprisonment of one (1) to ten (10) years.
5. The narcotic drugs, psychotropic substances or analogues and the means for their production, distribution or transportation shall be confiscated.

Article 275

Unauthorized possession of narcotic drugs, psychotropic substances or analogues

1. Whoever, without authorization possesses narcotic drugs, psychotropic substances or analogues shall be punished by a fine and by imprisonment of one (1) to three (3) years.
2. A first time offender under paragraph 1 of this Article who possesses less than three (3) grams of cannabis or hashish for personal use shall be punished by a fine or by imprisonment up to one (1) year.
3. The narcotic drugs, psychotropic substances or psychotropic analogues shall be confiscated.

Article 276

Intoxicating another person with a narcotic drug or psychotropic substances

Whoever intoxicates another person with a narcotic drug, psychotropic substance or analogue without this person's knowledge shall be punished by imprisonment of one (1) to five (5) years.

Article 277

Facilitating acquisition or use of narcotic drugs, psychotropic substances or analogues

1. Whoever administers narcotic drugs, psychotropic substances or analogues and due to his or her function facilitates their acquisition or use in violation of the law shall be punished by imprisonment of six (6) months to five (5) years.
2. A manager or owner of any establishment or other closed premises used by the public who permits or tolerates the use of narcotic drugs, psychotropic substances or analogues shall be punished by imprisonment of three (3) months to five (5) years.

Article 278

Cultivation of opium poppy, coca bush or cannabis plants

1. Whoever, without authorization cultivates an opium poppy, a coca bush, or a cannabis plant for the purpose of producing drugs or psychotropic substances shall be punished by imprisonment of one (1) to ten (10) years.
2. The opium, poppy, coca bush, or cannabis plants and the supplies, equipment and materials for their cultivation shall be confiscated.

Article 279

Organizing, managing or financing trafficking in narcotic drugs or psychotropic substances

1. Whoever organizes, manages or finances any of the offenses in this Chapter shall be punished by imprisonment of two (2) to ten (10) years.
2. When the offense in paragraph 1 of this Article involves a large quantity of narcotic drugs or psychotropic substances, the perpetrator shall be punished by imprisonment of three (3) to fifteen (15) years.

Article 280

Conversion or transfer of property derived from offenses in this chapter

1. Whoever converts or transfers property, knowing that such property is derived from any offense in this Chapter or from an act of participation in such offense or offenses, and such conversion or transfer is for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offense or offenses to evade the legal consequences of his actions shall be punished by a fine three times the value of the transferred or converted property and imprisonment up to ten (10) years.
2. The converted or transferred property shall be confiscated.

Article 281

Punishment for serious cases of criminal offenses from this chapter

1. If the criminal offense from Article 273, 274, 275 276 or 278 of this Code is committed in one or more of the following circumstances, the perpetrator shall be punished by a fine and imprisonment of three (3) to fifteen (15) years, if:
 - 1.1. the perpetrator is acting as a member of a group;
 - 1.2. the perpetrator is an official person abusing his or her position or authorizations;
 - 1.3. the perpetrator uses or threatens to use violence or a weapon;
 - 1.4. the offense is committed against a vulnerable victim
 - 1.5. a shipment, consignment, container or vehicle intended for a humanitarian operation is used for the unlawful transport of narcotic drugs or psychotropic substances;
 - 1.6. the perpetrator mixes the narcotic drug, psychotropic substance or analogue with other substances that aggravate the danger to health;

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- 1.7. the offense is committed within a three hundred fifty (350) meter radius of a school or any other locality which is used by children or within a three hundred fifty (350) meter radius of any educational institution;
 - 1.8. the offense is committed in a correctional institution;
 - 1.9. the offense involves large quantities of narcotic drugs, psychotropic substances or analogues;
2. The narcotic drugs, psychotropic substances or analogues and the means for their production, distribution or transportation shall be confiscated.

Article 282

Compensation to law enforcement

The court shall order any person convicted of an offense under this Code, to compensate any law enforcement agency for reasonable expenditures made by the agency in purchasing narcotic drugs or psychotropic substances from him, her or his or her agent as part of an investigation leading to his conviction.

CHAPTER XXIV ORGANIZED CRIME

Article 283

Participation in or organization of an organized criminal group

1. Whoever, with the intent and with knowledge of either the aim and general activity of the organized criminal group or its intention to commit one or more criminal offenses which are punishable by imprisonment of at least four (4) years, actively takes part in the group's criminal activities knowing that such participation will contribute to the achievement of the group's criminal activities, shall be punished by a fine of up to two hundred fifty thousand (250,000) EUR and imprisonment of at least seven (7) years.
2. Whoever organizes, establishes, supervises, manages or directs the activities of an organized criminal group shall be punished by a fine of up to five hundred thousand (500,000) EUR and by imprisonment of at least ten (10) years.
3. When the activities of the organized criminal group provided for in paragraph 1 or 2 of this Article result in death, the perpetrator shall be punished by a fine of up to five hundred thousand (500,000) EUR and by imprisonment of at least ten (10) years or life long imprisonment.
4. The court may reduce the punishment of a member of an organized criminal group who, before the organized criminal group has committed a criminal offense reports to the police or prosecutor the existence, formation and information of the organized criminal group in sufficient detail to allow the arrest or the prosecution of such group.
5. For the purposes of Article, "actively takes part" includes, but is not limited to, the provision of information or material means, the recruitment of new members and all forms of financing of the group's activities.

**CHAPTER XXV
CRIMINAL OFFENSES AGAINST THE ECONOMY**

Article 284

Violating right of equality in exercising economic activity

The official person who through the abuse of his or her official duty or authorizations, limits the free movement of capital, people, goods, services, work or means of reproduction in the Republic of Kosovo, or denies or limits the right of a business organization or legal person to engage in the circulation of merchandise or services in the Republic of Kosovo, or places a business organization or legal person in an unequal position with respect to another business organization or legal person in relation to working conditions or the circulation of merchandise or services, or limits the free exchange of merchandise or services, and thereby causes considerable profit for one business organization or legal person or considerable damage to another shall be punished by imprisonment of six (6) months to five (5) years.

Article 285

Irresponsible economic activity

1. A responsible person who, by intentionally violating the law or other provision relating to business activities, or acts contrary to regular business standards, and thereby causes substantial material damage to the business organization or legal person shall be punished by a fine or by imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article results in the compulsory liquidation or the bankruptcy of that business organization or legal person, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.

Article 286

Causing bankruptcy

1. Whoever, with knowledge of excessive indebtedness or current or impending insolvency engages in one or more of the following activities shall be punished with imprisonment of six (6) months to five (5) years:
 - 1.1. conceals or alienates, or, in a manner contrary to regular business standards, destroys, damages or renders unusable any asset, which in the case of institution of insolvency proceedings would belong to the bankrupt estate;
 - 1.2. in a manner contrary to regular business standards, enters into losing or speculative ventures or futures trading in goods or securities or consumes excessive sums or becomes indebted through uneconomical expenditures, gambling or wagering;
 - 1.3. procures goods, services, or credit, undertakes economic activity that creates excessive debt, concludes or renews unreasonable contracts, fails to collect outstanding debts, fails to enforce claims in a timely manner and/or disposes of goods or services, securities or things produced from these goods

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- substantially under their value in a manner contrary to regular business standards;
- 1.4. feigns the existence of another's rights or knowingly recognizes fabricated rights;
 - 1.5. fails to keep books of account, which he or she is statutorily obligated to keep, or keeps or modifies them such that an analysis or audit of the net assets is made more difficult;
 - 1.6. alienates, conceals, destroys or damages books of account or other documentation, with the intent to make an analysis or audit of net assets more difficult, conceal assets or defraud any person;
 - 1.7. diminishes net assets or hides or conceals actual business relationships in any other manner which is grossly contrary to regular business standards;
 - 1.8. assumes excessive obligations; or
 - 1.9. concludes or renews unreasonable contracts with insolvent entities.
2. The offense in paragraph 1 of this Article is punishable only if compulsory liquidation or bankruptcy proceedings have been initiated.
 3. If the offense from paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment of up to three (3) years.

Article 287

Causing false bankruptcy

1. Whoever engages in one of the following with the intention of not paying what he or she is obliged to pay, or with intent to defraud or by defrauding any creditor or debtor shall be punished by imprisonment of six (6) months to five (5) years:
 - 1.1. hides all or part of the property of the subject, conducts a false sale, sells it under market value or transfers it to another person as compensation;
 - 1.2. enters into false or fraudulent contracts of debt; or
 - 1.3. hides, destroys or alters the accounting records that he is obliged by law to keep so that the results of his activity or the state of the assets or obligations cannot be established, or, with false documents or any other manner creates a situation where bankruptcy can occur.
2. The offenses in paragraph 1 of this Article are punishable only if compulsory liquidation or bankruptcy proceedings have been initiated.
3. If the offense provided for in paragraph 1 of this Article results in a loss in excess of fifteen thousand (15,000) EUR for the creditor, the perpetrator shall be punished by imprisonment from one (1) to ten (10) years.

Article 288

Fraud in bankruptcy proceeding

1. Whoever, in relation to a bankruptcy proceeding, engages in one or more of the following activities with an administrator or a person acting in the capacity of administrator shall be punished by imprisonment of six (6) months to five (5) years:
 - 1.1. submits a false statement, document or claim, or gives false testimony;

- 1.2. knowingly and fraudulently transfers, conceals or fails to turnover any property or documents to an administrator, or to a person acting in the capacity of administrator;
- 1.3. knowingly and fraudulently gives, offers, receives or attempts to obtain any money, property, remuneration, compensation, reward, advantage, or promise of an act or forbearance to act in order to gain any advantage in a bankruptcy proceeding; or
- 1.4. knowingly and without permission from the estate administrator, sells, receives, steals, appropriates, destroys, desecrates, or purchases, either directly or indirectly, any papers or property of the estate.

Article 289

Defrauding or damaging creditors or debtors

1. Whoever, with knowledge of excessive indebtedness or current or impending insolvency, places one creditor or debtor in a more favorable position through the payment of debts or in any other way and thereby causes five thousand (5,000) EUR or more in damages or results in a loss of five thousand (5,000) EUR or more to other creditors shall be punished by imprisonment of up to three (3) years.
2. Whoever, in order to deceive or cause damage to a creditor or debtor, accepts a false claim, enters into false contracts or commits any other fraudulent act, thereby damaging a creditor or debtor shall be punished by imprisonment of six (6) months to five (5) years.
3. When the offense provided for in paragraph 1 or 2 of this Article results in damage exceeding two hundred fifty thousand (250,000) EUR or results in a loss in excess of two hundred fifty thousand (250,000) EUR or when, as a result, the injured party is forced to undergo a reorganization or bankruptcy procedure, the perpetrator shall be punished by imprisonment of one (1) to ten (10) years.

Article 290

Misuse of economic authorizations

1. Whoever while engaging in an economic activity commits one of the following acts with the intent to obtain an unlawful material benefit for oneself or any other person shall be punished by a fine and imprisonment of six (6) months to five (5) years:
 - 1.1. creates or holds illicit funds in the Republic of Kosovo or in any other jurisdiction;
 - 1.2. through the compilation of documents with false content, false balance sheets, false evaluations, inventories or any other false representations or through the concealment of evidence falsely represents the flow of assets or the results of the economic activity and in this way misleads the managing bodies within the business organization in decision making on management activities;
 - 1.3. fails to meet tax obligations or other fiscal obligations as determined by law;
 - 1.4. uses means at his or her disposal contrary to their foreseen purpose; or

- 1.5. in any other way violates the law on or the rules of business activity which relate to the disposal, use or management of property.
2. When the offense provided for in paragraph 1 of this Article results in material benefits exceeding one hundred thousand (100,000) EUR, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 291

Entering into harmful contracts

1. A responsible person who engages in an economic activity, enters into a contract that he or she knows to be harmful for the business organization, or enters into a contract contrary to his or her authorizations and thereby causes damage to the business organization shall be punished by imprisonment of three (3) months to three (3) years.
2. When the perpetrator of the offense provided for in paragraph 1 of this Article accepts a bribe or causes damage exceeding one hundred thousand (100,000) EUR, the perpetrator shall be punished by imprisonment of one (1) to ten (10) years.

Article 292

Unauthorized communication of trade secrets

1. Whoever, in violation of his or her duties to protect business or trade secrets communicates or conveys information about a business or trade secrets to another person or otherwise enables any unauthorized person to access such information or collects such information with the intent to convey it to an unauthorized person shall be punished by a fine or imprisonment of up to three (3) years.
2. Whoever, with the intent to use in an unauthorized way, unlawfully acquires information that is protected as a business or trade secret as provided for in paragraph 1 of this Article shall be punished as provided in paragraph 1 of this Article.
3. When the information provided for in paragraph 1 or 2 of this Article is of such special importance or if it is conveyed to another person with the intent to transmit such information outside of the Republic of Kosovo, or if the act is committed with the intent to obtain a material benefit, the perpetrator shall be punished by a fine and imprisonment of up to five (5) years.
4. When the offense provided for in paragraph 1 or 3 of this Article is committed by negligence, the perpetrator shall be punished by a fine or imprisonment of up to one (1) year.
5. Whoever, with the intent to convert a trade secret to the economic benefit of anyone other than its owner, steals, or without authorization takes, or by fraud or deception obtains information provided for in paragraph 1 of this Article shall be punished by a fine and imprisonment of up to five (5) years.
6. Whoever receives, buys, or possesses a trade secret, knowing the same to have been stolen or obtained without authorization, shall be punished by a fine or imprisonment of up to three (3) years.
7. For the purposes of this Article the term “business secret” means information

designated as such by law or by the provisions of a business organization or legal person, and which represents a manufacturing secret, the results of research or design work, financial, business, scientific, technical, economic or engineering information, including patterns, plans, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, codes or other information which the owner has taken reasonable measures to keep secret, and the disclosure of which to an unauthorized person could have harmful effects on the economic interests of the business organization or legal person.

8. For the purposes of this Article, the term “trade secret” means information designated as such by law or by the provisions of a business organization or legal person, or which represents a manufacturing secret, the results of research or design work, financial, business, scientific, technical, economic or engineering information, including patterns, plans, formulas, prototypes, methods, techniques, processes, procedures, programs, codes or other information which the owner has taken reasonable measures to keep secret, and the disclosure of which to an unauthorized person could have harmful effects on the economic interests of the business organization or legal person.

Article 293

Counterfeit securities and payment instruments

1. Whoever produces counterfeit securities or payment instruments or alters securities with the intent to use them as genuine, or gives them to another person to use or uses such counterfeit securities as genuine shall be punished by imprisonment of six (6) months to five (5) years.
2. Whoever uses counterfeit, securities or payment instruments shall be punished by imprisonment of three (3) months to three (3) years.
3. Whoever with the knowledge that a security or payment instrument is counterfeit, receives, transports, or possesses a counterfeit security or payment instrument with the intent to distribute or use it as genuine, shall be punished by imprisonment of three (3) months to five (5) years.
4. When the offense provided for in paragraph 1 or 2 of this Article involves securities or payment instrument with a stated value exceeding ten thousand (10,000) EUR, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
5. Whoever has received the counterfeit securities or payment instruments as genuine and uses them with knowledge that they are counterfeit, shall be punished by a fine or by imprisonment of up to one (1) year.
6. An attempt to commit the criminal offense provided for in paragraph 5 of this Article shall be punishable.
7. The counterfeit securities, payment instruments and the equipment for their manufacturing or alteration shall be confiscated.
8. ‘Payment instrument’ shall mean a corporeal instrument, other than money enabling by its specific nature, alone or in conjunction with another payment instrument, the holder or user to transfer money or monetary value. This would include but not be limited to stock shares, share certificates, bonds, credit cards,

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eurocheque cards, other cards issued by financial institutions, travelers' cheques, eurocheques, other traveler's cheques and bills of exchange, which are protected against imitation or fraudulent use, through design, coding, signature or other means.

9. Counterfeit securities or payment instruments includes falsified securities or payment instruments and genuine securities or payment instruments that have been altered in material respect and with the intent to use them for fraudulent purposes.

Article 294 **Counterfeiting stamps of value**

1. Whoever produces counterfeit stamps of value, alters any of these stamps with the intent to use them as genuine, gives to another person to use or uses such counterfeit stamps as genuine, shall be punished by fine or by imprisonment of up to three (3) years.
2. Whoever, with the knowledge that a stamp of value is counterfeit, supplies, sells, purchases, distributes, transports, receives or possesses a counterfeit or canceled stamp with the intent to distribute or use it as genuine, shall be punished by imprisonment of up to three (3) years.
3. When the offense provided for in paragraph 1 of this Article involves stamps of a value exceeding ten thousand (10,000) EUR, the perpetrator shall be punished by a fine and imprisonment of six (6) months up to five (5) years.
4. Whoever removes a canceling stamp from a stamp of value referred to in paragraph 1 this Article, or in some other way and for the purpose of repeated use, attempts to make such stamp appear as if it has never been used before, or reuses a used stamp or sells it as valid, shall be punished by a fine or imprisonment up to one (1) year.
5. Whoever has received the counterfeit stamp of value as genuine and uses it with knowledge that it is counterfeit, shall be punished by a fine or by imprisonment of up to one (1) year.
6. Whoever has knowledge of a counterfeit stamp of value being made or used, and fails to report it shall be punished by a fine or by imprisonment of up to one (1) year.
7. Counterfeit stamps of value and the equipment for their manufacturing or alteration shall be confiscated.

Article 295 **Violating patent rights**

1. Whoever, in the course of engaging in an economic activity, uses without authorization, a patent registered or protected by law or a registered topography of a circuit of a semi-conductor shall be punished by a fine or by imprisonment of up to three (3) years.
2. The objects provided for in paragraph 1 of this Article which were manufactured for unauthorized use shall be confiscated.

Article 296
Violation of copyrights

1. Whoever, under his own name, or somebody else's name discloses or otherwise communicates to the public a copyrighted work or a performance of another, in whole or in part, shall be punished by a fine and imprisonment of three (3) months to up to three (3) years.
2. Whoever during use of copyrighted work or a performance of another intentionally fails to state the name, pseudonym or mark of the author or performer, when this is required by law, shall be punished by fine and imprisonment for up to one (1) year.
3. Whoever distorts, mutilates or otherwise harms a copyrighted work or a performance of another, and discloses it in such form or otherwise communicates it in such form to the public shall be punished for by fine or imprisonment for up to one (1) year.
4. Whoever performs or otherwise communicates to the public a copyrighted work or a performance of another in an indecent manner, which is prejudicial to the honor and reputation of the author or performer, shall be punished by a fine or imprisonment for up to one (1) year.
5. Whoever without authorization uses a copyrighted work or subject matter of related rights, shall be punished by imprisonment up to three (3) years.
6. If, during the commission of the offense described in paragraph 5 of this Article, the perpetrator obtained for himself or for another person at least ten thousand (10,000) EUR but less than fifty thousand (50,000) EUR, he or she shall be punished by a fine and imprisonment of not less than three (3) months to five (5) years.
7. When the perpetrator of the offense in paragraph 5 of this Article obtains for himself, herself, or for another person more than fifty thousand (50,000) EUR, he or she shall be punished by a fine and imprisonment of not less than six (6) months to eight (8) years.
8. The objects and the equipment for their manufacturing provided for in this Article shall be confiscated.

Article 297
Circumvention of technological measures

1. Whoever commits any act of circumvention of any effective technological protection measure or any act of removal or alteration of electronic rights management information, as provided for by the provisions of the Law on Copyright and Related Rights shall be punished by imprisonment for up to three (3) years.
2. The objects and the equipment for their manufacturing provided for in paragraph 1 of this Article shall be confiscated.

Article 298
Deceiving consumers

1. Whoever, in the course of engaging in an economic activity and with the intent to deceive purchasers or consumers, uses or possesses with intent to use another's

trade name or trademark, another's goods trademark or services trademark or another's trademark related to geographical origin or any other special trademark of goods or components thereof in his or her own trade name, trademark, or special trademark of goods shall be punished by imprisonment of up to three (3) years.

2. Whoever, with the intent to deceive purchasers or consumers, uses in production another's sample or another's model without authorization or distributes articles manufactured in this way shall be punished as provided for in paragraph 1 of this Article.
3. The objects and the equipment for their manufacturing provided for in this Article shall be confiscated.

Article 299 Defrauding purchasers

1. Whoever, with the intent to defraud purchasers, distributes products stamped with written data that does not correspond to the content, type, origin or quality of the product, distributes products whose weight or quality does not correspond to what is regularly expected in such products or distributes products without a stamp indicating the content, type, origin, or quality of the product when such a stamp is required by law shall be punished by a fine or by imprisonment of up to three (3) years.
2. Whoever, with the intent to defraud purchasers, falsely declares a reduction in price or an expected increase in the price of goods or in any other way openly uses a false advertisement shall be punished by a fine or by imprisonment of up to one (1) year.

Article 300 Organizing pyramid schemes and unlawful gambling

1. Whoever, with the intent to obtain an unlawful material benefit for himself or herself or another person, organizes, participates or assists in organizing pyramid scheme activities shall be punished by imprisonment of six (6) months to five (5) years.
2. Whoever, with the intent to obtain an unlawful material benefit for himself or herself or another person, organizes, participates or assists in organizing gambling, casino-type gambling or games of chance as defined by law for which no license, permit or concession by a competent authority has been issued shall be punished by imprisonment of six (6) months up to five (5) years.
3. When the offense provided for in paragraph 1 or 2 of this Article results in gains or losses exceeding twenty five thousand (25,000) EUR, the perpetrator shall be punished by imprisonment of two (2) to twelve (12) years.
4. For the purposes of this article, the term "pyramid scheme" means a fraudulent investment offering or plan in which money contributed by later investors is used to directly pay or repay interest or principal to earlier investors without any operation or revenue-producing activity other than the continual raising of new funds.

Article 301
Misuse of the position of monopoly

1. The responsible person who undertakes one or more of the following economic activities which misuse a position of monopoly or his or her dominant position in the market or a substantial part of the market by engaging in one or more of the following, shall be punished by imprisonment of up to three (3) years:
 - 1.1. directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
 - 1.2. directly or indirectly fixing purchase or selling prices or any other trading conditions;
 - 1.3. limiting or controlling production, markets or technical development or investment;
 - 1.4. applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
 - 1.5. making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts;
 - 1.6. directly or indirectly fixing purchase or selling prices or any other trading conditions of share markets or sources of supply;
 - 1.7. demanding less favorable payment or other business terms than is demanded from similar purchasers in comparable markets, unless there is an objective justification for such differentiation;
 - 1.8. demanding payment or other business terms that differ from those that would very likely prevail if effective competition existed.
2. The responsible person in a business organization who colludes with a person in another business organization which is engaged in the same line of business, with the purpose of the collusive agreement being to raise, lower, or otherwise influence the price of goods or services sold or purchased by the business organizations, shall be punished by imprisonment of one (1) to five (5) years and a fine equal to the twenty-five percent (25%) of the value of the goods sold by his or her business organization which were subject to the collusive agreement.

Article 302
Counterfeit money

1. Whoever produces counterfeit money with the intent to distribute it as genuine shall be punished by imprisonment of one (1) to ten (10) years.
2. Whoever with the knowledge that such money is counterfeit obtains, distributes, transports, receives, uses or possesses counterfeit money with the intent to distribute it as genuine shall be punished by imprisonment of one (1) to eight (8) years.
3. Whoever receives fifty (50) EUR or less in counterfeit money reasonably believing it to be genuine, and then uses it with the knowledge that it is counterfeit shall be punished by a fine or by imprisonment of up to one (1) year.
4. Whoever has knowledge of counterfeit money being produced or used and fails to report it shall be punished by a fine or by imprisonment of up to one (1) year.

5. When the offense in paragraphs 1 and 2 of this Article involves counterfeit money with a stated value of more than one hundred thousand (100,000) EUR, the perpetrator shall be punished by imprisonment of at least three (3) years.
6. The counterfeit money, as well as the equipment for its manufacturing or alteration, shall be confiscated.

Article 303

Manufacturing and use of false official marks, measures and weights

1. Whoever, with the intent to use them as genuine, manufactures false official marks to label goods, as well as seals or stamps for the marking of gold, silver, livestock, wood or some other good produced domestically or abroad, or uses false official marks as genuine shall be punished by imprisonment of three (3) months to three (3) years.
2. Whoever materially alters measures or weights with the intent that they be used as accurate shall be punished as provided for in paragraph 1 of this Article.
3. The false marks, stamps, measures and weights and the equipment for their manufacturing and altering shall be confiscated.

Article 304

Production, supply, selling, possession or provision for use the means of counterfeiting

1. Whoever produces, supplies, sells, receives, possesses or provides for use the means for counterfeiting money, securities or payment instruments, shall be punished by imprisonment of one (1) to five (5) years.
2. Whoever produces, supplies, sells, receives possesses or provides for use the means for counterfeiting fiscal, postal or other stamps of value, marks for the fraudulent labeling of goods or inaccurate measures and weights shall be punished by a fine or by imprisonment of up to three (3) years.
3. For the purposes of this Article, “means for counterfeiting” includes instruments, articles, computer programs and any other means peculiarly adapted for the counterfeiting or altering of money, securities or payment instruments, stamps of value, marks for labeling goods, measures and weights or of holograms or other components of currency, securities or payment instruments, which serve to protect against counterfeiting.
4. The articles, means and the equipment for their manufacturing shall be confiscated.

Article 305

Prohibited trade

1. Whoever, without authorization, sells, buys or trades goods, objects or services shall be punished by imprisonment of three (3) months to three (3) years.
2. When the perpetrator of the offense provided for in paragraph 1 of this Article has organized a network of sellers or brokers or has acquired a profit exceeding fifteen thousand (15,000) EUR, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

3. The goods and objects from the prohibited trade shall be confiscated.

Article 306
Prohibited production

1. Whoever, without authorization, produces or processes goods whose production or processing is prohibited or restricted by law, shall be punished by a fine or by imprisonment of up to three (3) years.
2. The goods and the equipment for the unauthorized production or processing shall be confiscated.

Article 307
Issuing uncovered or false cheques and misuse of bank or credit cards

1. Whoever, with the intent to obtain an unlawful material benefit for himself or herself or another person, provides or circulates a cheque which he or she knows is not covered by funds, a false cheque or a counterfeit credit card and in this way realizes a material benefit shall be punished by a fine and imprisonment of up to three (3) years.
2. Whoever, with the intent to obtain an unlawful material benefit for himself or herself or another person, uses a credit card or a cheque without authorization or uses a bank card in a bank machine to withdraw cash knowing that such a withdrawal is not covered by the balance in the account or any overdraft privileges or whoever uses a credit card even though he or she knows that when payment is due he or she will not be able to pay the amount in question and in this way realizes a material benefit shall be punished as provided for in paragraph 1 of this Article.
3. When the offense provided for in paragraph 1 or 2 of this Article results in a material benefit exceeding five thousand (5,000) EUR, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.

Article 308
Money laundering

Whoever commits the offense of money laundering shall be punished as set forth in the Law on the Prevention of Money Laundering and Terrorist Financing.

Article 309
Agreements in restriction of competition upon invitation to tender

1. Whoever, upon an invitation to tender in relation to goods or commercial services, makes an offer based on an unlawful agreement and the purpose of such offer is to cause the organizer to accept a particular offer, shall be punished by a fine or imprisonment up to five (5) years.
2. The private awarding of a contract after previous participation in a competition shall be the equivalent of an invitation to tender within the meaning of paragraph 1 of this Article.

Article 310
Fraud in trading with securities

Whoever in trading stocks or other securities or options, falsely represents the balance of assets, the data on profits and losses or other data which has considerable influence on the value of the above mentioned securities, thereby inducing one or more persons to make a purchase or sale of such securities, shall be punished by a fine and imprisonment of up to five (5) years.

Article 311
Abuse of insider information

Whoever in non-compliance with his or her duties to protect the internal information of which he or she learns through the performance of an economic activity or ex officio, communicates to an unauthorized person information unknown to the public and capable of influencing the price of securities; or, whoever otherwise uses such information for personal gain, or for the purpose of securing an unfair advantage on the established securities market for any natural or legal person shall be punished by a fine and imprisonment of up to five (5) years

Article 312
Government securities collusion and fraud

1. Whoever participates in the buying or selling of securities in the Government Securities market and colludes with one or more other participants with the intent to affect the market in terms of yield, price, or the amount of Government Securities purchased in the auction or in the secondary market; or, whoever otherwise engages in any transaction, practice or course of conduct that operates as a fraud to other market participants shall be punished by a fine and by imprisonment of up to five (5) years.
2. Whoever, with the intent to obtain an unlawful benefit for himself, herself or another person engages in any transaction, practice or course of conduct in the buying or selling of Government Securities that operates as a fraud, or which induces a person to do or abstain from doing an act to the detriment of his or her property shall be punished by fine and by imprisonment of up to five (5) years.
3. If the criminal offense provided for in paragraphs 1 or 2 of this Article results in a material gain exceeding two hundred and fifty thousand (250,000) EUR, the perpetrator shall be punished by a fine and imprisonment of three (3) to twelve (12) years.
4. For the purposes of this Article, the term “colludes” means two or more persons who enter into an agreement to cooperate for their mutual benefit in order to limit open market competition or to gain an unfair advantage. This agreement may be tacit and therefore may be implied from the effect on the Government Securities market over a period of time.
5. The material benefits from this Article shall be confiscated.

Article 313
Tax evasion

1. Whoever, with the intent that he or she or another person conceal or evade, partially or entirely, the payment of taxes, tariffs or contributions required by the law, provides false information or omits information regarding his or her income, property, economic wealth or other relevant facts for the assessment of such obligations shall be punished by a fine and by imprisonment of up to three (3) years.
2. When the obligation provided for in paragraph 1 of this Article exceeds the sum of fifteen (15,000) EUR, the perpetrator shall be punished by a fine and imprisonment of six (6) months to five (5) years.
3. When the obligation provided for in paragraph 1 of this Article exceeds the sum of fifty thousand (50,000) EUR, the perpetrator shall be punished by a fine and by imprisonment of one (1) to eight (8) years.

Article 314
False tax related documents

1. Whoever makes a false statement or issues a false document when the submission of a truthful statement or document is required by law, or whoever does not issue a document whose issuance is required by law, shall be punished by a fine and by imprisonment of up to three (3) years.
2. When the offense referred to in paragraph 1 of this Article involves a large number of documents, or if the offense was committed to avoid payment of taxes of fifteen thousand (15,000) EUR or more, the perpetrator shall be punished by a fine and imprisonment of six (6) months to five (5) years.

Article 315
Unjustified acceptance of gifts

1. Whoever, in the course of engaging in an economic activity, requests or accepts a disproportionate reward, gift or any other benefit in order to neglect the interests of his or her business organization or legal person or to cause damage to such business organization or legal person when concluding a contract or agreeing to perform a service shall be punished by a fine and by imprisonment of up to three (3) years.
2. Whoever, in committing the offense provided for in paragraph 1 of this Article, requests or accepts a disproportionate reward, gift or other benefit for himself or another person in exchange for concluding a contract or agreeing to perform a service shall be punished by a fine and imprisonment of up to three (3) years.
3. Whoever, in committing the offense provided for in paragraph 1 of this Article, requests or accepts a reward, gift or any other benefit after the contract is concluded or the service is performed, shall be punished by a fine and imprisonment of up to one (1) year.
4. The accepted gift or reward shall be confiscated.

Article 316
Unjustified giving of gifts

1. Whoever gives, attempts to give or promises a disproportionate reward, gift or any other benefit to a person engaging in an economic activity in order to neglect the interests of his or her business organization or legal person or to cause damage to such business organization or legal person when concluding a contract or performing a service shall be punished by a fine and imprisonment of up to three (3) years.
2. Whoever gives, attempts to give or promises a disproportionate reward, gift or any other benefit to a person engaging in an economic activity in order to acquire any unjustified advantage for concluding a contract or performing a service shall be punished by a fine and imprisonment of up to three (3) years.
3. If the perpetrator of the offense provided for in paragraph 1 or 2 of this Article gives a reward or a gift according to a request and reports the offense before it was discovered or before he or she found out that it was discovered, the court may waive the punishment.
4. The reward or gift given shall be confiscated, except in the case provided for in paragraph 3 of this Article in which case it may be returned to the person who gave it.

Article 317
Smuggling of goods

1. Whoever, while crossing the border carries goods and avoids customs control, or whoever while avoiding customs control, carries the goods and crosses the border, shall be punished by a fine or by imprisonment of up to three (3) years.
2. Whoever, without a proper license, avoids the customs control and crosses the border carrying goods, the export or import of which is prohibited, limited or requires a special license issued by the competent authorities, shall be punished by imprisonment of six (6) months to five (5) years.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of one (1) to ten (10) years:
 - 3.1. the perpetrator crosses the border with objects, goods or dangerous substances which put the life or health of humans at risk;
 - 3.2. the perpetrator crosses the border with objects, goods or dangerous substances that pose a danger to public security;
 - 3.3. the perpetrator uses force or serious threat or a weapon or a dangerous instrument during the commission of the offense.
4. The goods provided for in paragraphs 1 and 2 of this Article shall be confiscated. If the goods cannot be found, or for other reasons cannot be confiscated, the equivalent of the value of the goods shall be paid.
5. The transport means or the means for carrying goods which were used for transporting the goods provided for in paragraphs 1 and 2 of this Article shall be confiscated.

Article 318

Avoiding payment of mandatory customs fees

1. Whoever, with the intent to enable himself or another person to avoid payment of the customs tax fee or other fees or customs obligations payable for the import or export of goods, or if a false document is presented to customs about the origin, value, quantity, quality, type and other characteristics of the goods, shall be punished by a fine or imprisonment of up to three (3) years.
2. If the avoided payment for the offense in paragraph 1 of this Article exceeds fifteen thousand (15,000) EUR, the perpetrator shall be punished by a fine and imprisonment of up to five (5) years.
3. If the avoided payment for the offense in paragraph 1 of this Article exceeds thirty thousand (30,000) EUR, the perpetrator shall be punished by a fine and by imprisonment from one (1) to eight (8) years.
4. The goods that were not accurately declared or the value of the payment avoided, whichever is greater, shall be confiscated.

CHAPTER XXVI

UTILITIES OFFENSES

Article 319

Definitions

1. For the purposes of this Chapter the terms below have the following meanings:
 - 1.1. **Authorized Supplier** - a person or legal entity which is authorized in accordance with the applicable law to supply electricity or a utility;
 - 1.2. **Utility** - gas, water, electricity or heating.

Article 320

Theft of utility services

Whoever takes, uses, diverts, extracts or benefits from any utility supplied by or through an electricity transmission or distribution network without the authorization of the Authorized Supplier shall be punished by a fine and imprisonment of up to three (3) years.

Article 321

Unauthorised connection to utilities

Whoever connects or reconnects to an electricity transmission or to a network for the transmission or distribution of any utility by any means, directly or indirectly, whether through conduction or induction, without the authorization of an Authorized Supplier shall be punished by a fine and imprisonment of up to three (3) years.

Article 322
Permitting unauthorized connection to utilities

1. Whoever permits an unauthorised connection or re-connection to a utility transmission or distribution network to exist on a property in his or her possession or under his or her ownership or control; or whoever, provides an unauthorised connection or re-connection to a utility transmission or distribution network to a property in his or her possession or under his or her ownership or control shall be punished by a fine and imprisonment of up to three (3) years.
2. The conduct in paragraph 1 of this Article is not a criminal offense if the person upon obtaining knowledge of the unauthorized connection or re-connection, immediately notifies the concerned Authorized Supplier of the existence of such unauthorised connection or re-connection.

Article 323
Alteration of an utilities meter

1. Whoever alters any meter used for measuring the quantity of any utility supplied to any premises by an Authorized Supplier or prevents any such meter or metering from correctly registering the quantity of any utility supplied shall be punished by a fine and imprisonment of up to three (3) years.
2. For a prosecution of an offense under this Article, the possession of an artificial means for causing an alteration of the register of the meter or the prevention of the meter from duly registering shall be sufficient evidence that the alteration or prevention was intentionally caused the person who has the custody or control of the meter.

Article 324
Permitting altered utilities meters

1. Whoever tampers with or circumvents a meter on property in his or her possession or under his or her ownership or control to provide unmetered or improperly metered utilities shall be punished by a fine and imprisonment of up to three (3) years.
2. The conduct in paragraph 1 of this Article is not a criminal offense if the person upon obtaining knowledge of the tampered or circumvented meter immediately notifies the concerned Authorized Supplier of the existence of the tampered or circumvented meter.

CHAPTER XXVII
CRIMINAL OFFENSES AGAINST PROPERTY

Article 325
Theft

1. Whoever takes the property of another person valued at fifty (50) EUR or more with the intent to unlawfully appropriate it for himself, herself or for another person shall be punished by a fine and by imprisonment of up to three (3) years.

2. If the value of the stolen property taken is less than fifty (50) EUR, the perpetrator shall be punished by a fine or by imprisonment of up to six (6) months.

Article 326
Theft of services

1. Whoever by deception, departing or other means obtains services known to be available only for compensation and avoids paying for such services shall be punished by a fine and imprisonment of up to one (1) year.
2. When the offense in paragraph 1 of this Article is committed by force or serious threat the perpetrator shall be punished by a fine and imprisonment up to three (3) years.
3. If the value of the stolen services is less than fifty (50) EUR the perpetrator shall be punished by a fine or by imprisonment of up to six (6) months.
4. For the purposes of this Article, “services” includes, but is not limited to transportation; labor; professional, technical, mechanical services; ski lift service; toll facilities; communications or telephone service; the supplying of food, lodging or other accommodation; the supplying of equipment, tools, vehicles or trailers for temporary use; the supplying of equipment for use; or Internet, computer or cable television system or access. “Services” also includes admission to entertainment, exhibitions, sporting events or other events which have an entrance fee or other charge for attending.
5. Leaving a business, hotel or restaurant without paying or offering to pay for the hotel, restaurant or other services for which compensation is customarily paid upon the receiving of the services is proof that the services were obtained with intent to avoid payment.

Article 327
Aggravated theft

1. Whoever commits theft, as provided for in paragraph 1 of Article 325 of this Code, shall be punished by a fine and imprisonment of three (3) to seven (7) years if:
 - 1.1. the offense was committed by breaking, passing, penetrating into locked vehicles, buildings, rooms, boxes, trunks or other locked premises through the use of force or the removal of obstacles with the intent to appropriate movable property;
 - 1.2. the perpetrator acted in a particularly dangerous or brazen manner;
 - 1.3. the perpetrator exploited a situation created as a result of fire, flood, earthquake, or any other disaster;
 - 1.4. the perpetrator took advantage of the incapacity or any other grave condition of another person.
2. Whoever commits theft, as provided for in paragraph 1 of Article 325 of this Code or paragraph 1 of this Article, shall be punished by imprisonment of three (3) to ten (10) years if:
 - 2.1. when the stolen property or services has a value exceeding five thousand (5,000) EUR;

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- 2.2. when the stolen property serves a religious function, or it is stolen from religious premises or other premises where religious ceremonies are carried out;
- 2.3. when the stolen property has a cultural, religious or historical value; is of special scientific, technical, or artistic importance; is part of a public collection, a protected private collection or a public exhibition; or, is a natural monument or object of nature under protection.
- 2.4. when the property is stolen from a grave;
- 2.5. when the stolen property is a weapon;
- 2.6. the perpetrator carried a weapon or any other dangerous instrument; or,
- 2.7. the perpetrator acted as a member of a group.

Article 328 **Theft in the nature of robbery**

1. Whoever, surprised in the commission of theft and with the intent to retain possession of the stolen property, uses force or serious threat to attack the life or body of another person shall be punished by a fine and imprisonment of three (3) to ten (10) years.
2. When the offense provided for in paragraph 1 of this Article is committed by the perpetrator acting as a member of a group or while in possession of a weapon or dangerous instrument, the perpetrator shall be punished by a fine and imprisonment of five (5) to twelve (12) years.
3. When the offense provided for in paragraph 1 of this Article is committed by the perpetrator acting as a member of an armed group or the offense results in grievous bodily injury, the perpetrator shall be punished by a fine and imprisonment of seven (7) years to twelve (12) years.
4. When the offense provided for in paragraph 1 of this Article results in death, the perpetrator shall be punished by a fine and imprisonment of not less than ten (10) years or lifelong imprisonment.

Article 329 **Robbery**

1. Whoever, by the use of force or serious threat to attack the life or body of another person, appropriates the movable property of such person with the intent to obtain an unlawful material benefit for himself or herself or another person shall be punished by a fine and imprisonment of three (3) to twelve (12) years.
2. When the offense provided for in paragraph 1 this Article involves a stolen object of a value exceeding five thousand (5,000) EUR, the perpetrator shall be punished by a fine and imprisonment of five (5) to twelve (12) years.
3. When the offense provided for in paragraph 1 of this Article is committed by the perpetrator acting as a member of a group or while in possession of a weapon or dangerous instrument, the perpetrator shall be punished by a fine and imprisonment of seven (7) to twelve (12) years.
4. When the offense provided for in paragraph 1 of this Article is committed by the

perpetrator acting as a member of an armed group or the offense results in grievous bodily injury, the perpetrator shall be punished by a fine and imprisonment of seven (7) to fifteen (15) years.

5. When the offense provided for in paragraph 1 of this Article results in death, the perpetrator shall be punished by a fine and imprisonment of not less than ten (10) years or lifelong imprisonment.

Article 330

Misappropriation of another's property

1. Whoever, with the intent to obtain an unlawful material benefit for himself, herself or another person, appropriates property that has been entrusted to himself, herself or another person, shall be punished by a fine and imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article is committed by a guardian, attorney or any other person with a legal duty towards the owner of the property, the perpetrator shall be punished by a fine and imprisonment of up to three (3) years.
3. When the value of the appropriated property exceeds ten thousand (10,000) EUR the perpetrator shall be punished by a fine and imprisonment of one (1) to five (5) years.
4. When the appropriated property has a cultural, religious or historical value; is of special scientific, technical, or artistic importance; is part of a public collection, a protected private collection or a public exhibition; or, is a natural monument or object of nature under protection, the perpetrator shall be punished by a fine and imprisonment of one (1) to eight (8) years.
5. Whoever unlawfully appropriates the movable property of another person which he or she has found or accidentally came into possession of, with the intent to obtain an unlawful material benefit for himself or herself or another person shall be punished by a fine and imprisonment of up to one (1) year.
6. If the value of the property appropriated is less than fifty (50) EUR, the perpetrator shall be punished by a fine or up to six (6) months imprisonment.
7. Criminal proceedings for the offense provided for in paragraphs 1 and 5 of this Article shall be initiated by a motion.

Article 331

Taking possession of movable property

1. Whoever unlawfully takes the movable property of another person to keep it in his or her possession but without the intent to appropriate it shall be punished by a fine or by imprisonment of up to one (1) year.
2. An attempt to commit the offense provided for in paragraph 1 of this Article shall be punishable if it involves the attempt to take or the taking of a motor vehicle of another person.
3. Criminal proceedings for the offense provided for in paragraph 1 of this Article shall be initiated by a motion if the property is under the ownership or administration of a public entity.

Article 332
Unlawful occupation of real property

1. Whoever unlawfully occupies the real property of another person or any part thereof shall be punished by a fine or by imprisonment of up to two (2) years.
2. When the offense provided for in paragraph 1 of this Article is committed under one of the following circumstances, the perpetrator shall be punished by imprisonment of three (3) months to three (3) years:
 - 2.1. when the occupied real property is part of a protected forest, a protected park or other forest with a special purpose, construction grounds or a road;
or,
 - 2.2. when the perpetrator occupies the real property knowing it has been subject of an eviction by order of the court or order or decision of any public entity or institution established under the applicable Laws of the Republic of Kosovo.
3. The perpetrator shall be punished by imprisonment of one (1) to three (3) years when he or she has previously been convicted for unlawful occupation of real property or has been evicted from such real property by order of the court or order or decision of any public entity or institution established under the applicable Laws of the Republic of Kosovo.

Article 333
Destruction or damage to property

1. Whoever destroys, damages, or renders unusable the property of another person under circumstances other than as provided in Article 334 of this Code shall be punished by imprisonment of up to one (1) year.
2. When the criminal offense provided for in paragraph 1 of this Article results in a loss exceeding five thousand (5,000) EUR, the perpetrator shall be punished by imprisonment of one (1) to three (3) years.
3. When the offense provided for in paragraph 1 of this Article involves an item that has a cultural, religious or historical value; is of special scientific, technical, or artistic importance; is part of a public collection, a protected private collection or a public exhibition; is a natural monument or, object of nature under protection; is exposed in public or is an item that serves for public use or for decoration of a square, street or park, the perpetrator shall be punished by a fine and by imprisonment up to three (3) years without regard to the loss.
4. When the criminal offence provided for in paragraph 1 of this Article is committed because of bias towards nationality, language, religious belief or lack of religious belief, color of skin, gender, sexual orientation, or because of their affinity with persons who have one the aforementioned protected characteristics, the perpetrator of the criminal offence shall be punished by imprisonment of up to three (3) years.

Article 334

Arson

1. Whoever starts a fire or causes an explosion with the purpose of damaging or destroying the property of another person shall be punished by imprisonment of six (6) months to three (3) years.
2. Whoever starts a fire or causes an explosion with the purpose of destroying another person's building or vehicle and the building or vehicle is occupied or in use shall be punished by imprisonment of one (1) to five (5) years.
3. When the offense in paragraph 1 or 2 of this Article involves damage of twenty thousand (20,000) EUR or more to the property, or the offense causes grievous bodily injury to another, the perpetrator shall be punished by imprisonment of three (3) to ten (10) years.
4. If the criminal offense from paragraph 1 or 2 of this Article results in death, the perpetrator shall be punished by not less than ten (10) years or lifelong imprisonment.

Article 335

Fraud

1. Except as provided for in Article 336 of this Code, whoever, by means of a false representation of facts or by concealing facts and with the intent to obtain an unlawful material benefit for himself, herself or another person, or to cause material damage to another person, deceives or continues the deception of another person and thereby induces a person to do or abstain from doing an act to the detriment of his or her property or another person's property shall be punished by a fine and imprisonment of three (3) months to three (3) years.
2. When the offense provided for in paragraph 1 of this Article results in unlawful material gain or causes damage of ten thousand (10,000) EUR or more, the perpetrator shall be punished by a fine and imprisonment of six (6) months to five (5) years.
3. When the object of the fraud is to obtain an unlawful benefit from public funds, the perpetrator shall be punished by a fine and imprisonment of six (6) months to five (5) years.
4. When the object of the fraud is to obtain an unlawful benefit from a bank, credit union or other financial institution, the perpetrator shall be punished by a fine and imprisonment of one (1) to five (5) years.
5. When the offense provided for in paragraph 1 of this Article results in unlawful material gain or causes damage exceeding fifty thousand (50,000) EUR, the perpetrator shall be punished by a fine and imprisonment of three (3) to ten (10) years.
6. When the value of the benefit obtained is less than fifty (50) EUR, the perpetrator shall be punished by a fine or imprisonment of up to six (6) months.

Article 336
Subsidy fraud

1. Whoever, in connection with the application for a grant, continuation, or modification of the terms of a subsidy, provides a competent authority with incorrect or incomplete information which is a condition for the granting, continuation or modification of a subsidy, or conceals such information in violation of an obligation to disclose such information to a competent authority, shall be punished by a fine or by imprisonment of up to five (5) years.
2. Whoever uses such subsidy in violation of the law or for purposes other than those for which it was originally granted by the subsidy provider shall be punished by a fine or by imprisonment of up to five (5) years.
3. If the offense provided for in paragraphs 1 or 2 of this Article results in material gain or material damage exceeding twenty-five thousand (25,000) EUR, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
4. A subsidy for the purposes of this provision means a benefit from public funds under the law of the Republic of Kosovo which, at least in part is granted without market related consideration and is aimed at stimulating the economy.

Article 337
Fraud related to receiving funds from European community

1. Whoever intentionally uses or presents false, incorrect or incomplete statements or documents and as a result unlawfully receives or retains funds from the General Budget of the European Community or budgets managed by, or on behalf of the European Community shall be punished by imprisonment of one (1) to five (5) years.
2. Whoever conceals information in violation of a specific obligation to disclose such information and as a result unlawfully receives or retains funds from the General Budget of the European Community or from budgets managed by, or on behalf of the European Community shall be punished by a fine or by imprisonment of one (1) to three (3) years.
3. Whoever uses funds from the General Budget of the European Community or budgets managed by, or on behalf of, the European Community for purposes other than those for which they were originally granted shall be punished by imprisonment of two (2) to eight (8) years.

Article 338
Misuse of insurance

1. Whoever, with the intent to collect insurance money or benefits from an insurer, destroys, damages, or hides property insured against such destruction, damage, loss or theft and then reports or falsely reports the destruction, damage, loss or theft shall be punished by a fine and imprisonment of up to three (3) years.
2. Whoever, with the intent to collect insurance money or benefits for bodily injury or impairment of health from an insurer, falsely reports an injury or impairment shall be punished shall be punished by a fine and imprisonment of up to three (3) years.

3. Whoever, with the intent to collect insurance money for bodily injury or impairment of health from an insurer, inflicts on himself or herself such injury or impairment and then reports the injury or impairment shall be punished by a fine and imprisonment of six (6) months to three (3) years.

Article 339

Intrusion into computer systems

1. Whoever, without authorization and with the intent to obtain an unlawful material benefit for himself, herself or another person or to cause damage to another person, alters, publishes, deletes, suppresses or destroys computer data or programs or in any other way intrudes into a computer system shall be punished by a fine and imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article results in a material benefit exceeding ten thousand (10,000) EUR, or material damage exceeding ten thousand (10,000) EUR, the perpetrator shall be punished by a fine and imprisonment of six (6) months to five (5) years.

Article 340

Extortion

1. Whoever, with the intent to obtain an unlawful material benefit for himself, herself or another person, uses force or serious threat to compel another person to do or abstain from doing an act to the detriment of his or her property or another person's property shall be punished by a fine and imprisonment of three (3) months to five (5) years.
2. When the offense provided for in paragraph 1 of this Article is committed by a perpetrator acting as a member of a group, is committed using a weapon or a dangerous instrument; or, the offense results in a material benefit in a sum that exceeds ten thousand (10,000) EUR, the perpetrator shall be punished by a fine and imprisonment of one (1) to ten (10) years.

Article 341

Blackmail

1. Whoever, with the intent of obtaining an unlawful material benefit for himself, herself or another person, threatens another person to reveal something about him or her or about persons close to him or her which will damage their honor or reputation, and in this way compels such person to do or abstain from doing an act to the detriment of his or her property or another person's property shall be punished by a fine and imprisonment of six (6) months to five (5) years.
2. When the offense provided for in paragraph 1 of this Article is committed by a perpetrator acting as a member of a group; is committed using a weapon or a dangerous instrument; or, the offense results in an unlawful material gain exceeding ten thousand (10,000) EUR, the perpetrator shall be punished by a fine and imprisonment of one (1) to ten (10) years.

Article 342
Breach of trust

1. Whoever, in representing, maintaining or taking care of the property interests of another person fails to perform his or her duty or misuses his or her authorizations with the intent of obtaining an unlawful material benefit for himself, herself or another person or to cause damage to the person whose property interests he or she is representing or maintaining or whose property is under his or her care shall be punished by a fine and imprisonment of three (3) months up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed by a guardian, attorney or any other person with a legal duty towards the owner of the property, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.

Article 343
Usury

1. Whoever, on behalf of himself, herself or another person, accepts or negotiates an evidently disproportionate amount of property in return for a service to another person, by taking advantage of such person's difficult financial circumstances, difficult housing circumstances, hardship, inexperience or inability to make judgments shall be punished by a fine and by imprisonment of six (6) months to five (5) years.
2. If the criminal offense provided for in paragraph 1 of this Article results in a financial loss of ten thousand (10,000) EUR or if the perpetrator realized a material gain exceeding ten thousand (10,000) EUR, the perpetrator shall be punished by a fine and imprisonment of one (1) to eight (8) years.
3. If the criminal offense provided for in paragraph 1 of this Article results in a financial loss of twenty-five thousand (25,000) EUR or if the perpetrator realized a material gain exceeding twenty five thousand (25,000) EUR, the perpetrator shall be punished by a fine and imprisonment of three (3) to twelve (12) years.

Article 344
Damaging another person's property rights

1. Whoever, for the purpose of frustrating the satisfaction of a claim on property, conveys, destroys or takes away an object on his or her property in which another person has an interest based on a mortgage, lease or other usufructuary right and thereby causes damage to such person shall be punished by a fine or by imprisonment of up to three (3) years.
2. Whoever, with the intent to obstruct the settlement of a debt to the creditor in the course of an execution by force, conveys, destroys or conceals part of the property and thereby damages the creditor shall be punished as provided for in paragraph 1 of this Article.
3. Whoever, with the intent to obstruct the settlement of a debt to the creditor accepts false claims on property, enters a false contract or in another way aggravates his

material condition and thereby decreases the possibility for the creditors to be compensated, shall be punished as provided for in paragraph 1 of this Article.

Article 345

Purchase, receipt or concealment of goods obtained through the commission of a criminal offense

1. Whoever purchases, accepts, conceals or in any other way procures or hides an object or property which he or she knows has been obtained by the commission of a criminal offense shall be punished by imprisonment of three (3) months to three (3) years.
2. Whoever purchases, accepts, conceals or in any other way procures or hides an object or property which he or she could have known has been obtained by the commission of a criminal offense shall be punished by imprisonment of up to one (1) year.
3. Where the object or property has a value exceeding five thousand (5,000) EUR, the perpetrator shall be punished by imprisonment of one (1) to three (3) years.

Article 346

Burglary of motor vehicles

1. Whoever, in an unlawful manner, enters or remains in the vehicle of another person or fails to leave such vehicle upon the request of the lawful or authorized person shall be punished by imprisonment of up to three (3) years.
2. When the offense in paragraph 1 of this Article is committed in one or more of the following circumstances the perpetrator shall be punished by imprisonment of one (1) to five (5) years:
 - 2.1. at a time when the vehicle were occupied by one or more persons;
 - 2.2. the perpetrator is armed with a weapon, dangerous instrument or other object capable of causing grievous bodily injury or serious impairment to health; or
 - 2.3. the perpetrator threatens or injures another person in the course of the offense.
3. When the offense provided for in paragraph 1 of this Article is committed by an official person abusing his or her position or authorizations, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.

CHAPTER XXVIII

CRIMINAL OFFENSES AGAINST THE ENVIRONMENT, ANIMALS, PLANTS AND CULTURAL OBJECTS

Article 347

Polluting, degrading or destroying the environment

1. Whoever, in violation of the law, pollutes or degrades the air, water or soil or excessively uses or exploits natural resources shall be punished by a fine or by imprisonment of up to two (2) years.

Criminal laws

2. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.
3. When the offense provided for in paragraph 1 of this Article results in the impairment to health of a significant number of people or the complete or partial destruction of flora or fauna or reservoirs of drinking water or any other significant material damage to the environment or an increase in pollution to a critical level the perpetrator shall be punished by a fine and by imprisonment of to five (5) years.
4. When the offense provided for in paragraph 2 of this Article results in the impairment to health of a significant number of people or the complete or partial destruction of flora or fauna or reservoirs of drinking water or any other significant material damage to the environment or an increase in pollution to a critical level or critical damage to the environment, the perpetrator shall be punished by a fine and by imprisonment up to two (2) years.
5. When the offense provided for in paragraph 1 of this Article results in irreparable damage or destruction of the environment or endangerment of protected natural resources, the perpetrator shall be punished by a fine and imprisonment of one (1) to eight (8) years.
6. When the offense provided for in paragraph 2 of this Article results irreparable damage or destruction of the environment or endangerment of protected natural resources, the perpetrator shall be punished by a fine and by imprisonment of six (6) months to five (5) years

Article 348

Unlawful handling hazardous substances and waste

1. Whoever, in violation of the law, disposes of, handles, stores, transports, exports or imports hazardous substances or waste likely to cause death or grievous bodily injury to any person or substantial material damage to the quality of the air, soil, or water or to animals, plants or property shall be punished by a fine and by imprisonment of one (1) to three (3) years.
2. Whoever, in violation of the law disposes of, handles, stores, transports, exports or imports radioactive substances or radioactive waste which can cause death or grievous bodily injury to any person or substantial material damage to the quality of air, soil or water or to animals or plants or property shall be punished by a fine and by imprisonment of one (1) to five (5) years.
3. When the criminal offense provided for in paragraph 1 of this Article, is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.
4. When the criminal offense provided for in paragraph 2 of this Article, is committed by negligence, the perpetrator shall be punished by a fine or imprisonment of up to two (2) years.
5. When the offense provided for in paragraph 1 or 2 this Article results in death or grievous bodily injury to any person or substantial material damage to property, animals or plants, or the substantial material degradation of the quality of the air,

water or soil, the perpetrator shall be punished by a fine and by imprisonment of three (3) to twelve (12) years.

6. When the offense provided for in paragraph 3 this Article results in death or grievous bodily injury to any person or substantial material damage to property, animals or plants, or the substantial material degradation of the quality of the air, water or soil, the perpetrator shall be punished a fine or imprisonment from one (1) to eight (8) years.

Article 349

Allowing unlawful construction or unlawful operation of plants and installations that pollute the environment

1. Whoever, in violation of the law on protecting the environment, allows the construction or installation of a plant or operates or manages a plant or an installation in which a hazardous activity is carried out and thereby risks causing death or grievous bodily injury to any person, pollutes the environment, the air, soil or water or causes damage of five thousand (5,000) EUR or more to animals or plants or property shall be punished by a fine or by imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.
3. Whoever in violation of the law, allows or applies technologies that pollutes the environment in large scale or territory shall be punished by a fine or by imprisonment of up to three (3) years.
4. When the offense provided for in paragraph 3 of this Article results in complete or partial destruction of flora or fauna or large scale pollution that takes a significant time or expenses to be remedied, the perpetrator shall be punished by a fine and by imprisonment of six (6) months to five (5) years.
5. When imposing a sentence for the criminal offense provided for in this Article, the court may require the perpetrator to undertake certain measures for protection, safeguarding and improving the environment.

Article 350

Damaging objects and installations for protection of the environment

1. Whoever, damages, destroys, removes or in other manner renders unusable objects or installations for the protection of the environment, shall be punished by a fine or by imprisonment of up to three (3) years.
2. If the criminal offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.
3. If the criminal offense provided for in paragraph 1 of this Article results in the pollution of air, water or soil in large scale and territory, the perpetrator shall be punished by a fine and by imprisonment of six (6) months to five (5) years.
4. If the criminal offense provided for in paragraph 2 of this Article results in the

pollution of air, water or soil in large scale and territory, the perpetrator shall be punished by a fine or by imprisonment of up to three (3) years.

5. When the offense provided for in paragraph 1 and 3 of this Article results in complete or partial destruction of flora or fauna or large scale pollution that takes significant time and expense to be remedied, the perpetrator shall be punished by a fine and by imprisonment of one (1) to eight (8) years.
6. When the offense provided for in paragraph 2 and 4 of this Article results in complete or partial destruction of flora or fauna or large scale pollution that takes significant time and expense to be remedied, the perpetrator shall be punished by a fine and by imprisonment of six (6) months to five (5) years.
7. When imposing a sentence for the criminal offense provided for in this Article, the court may require the perpetrator to undertake certain measures for protection, safeguarding and improving the environment.

Article 351

Production, sale and circulation of harmful substances for the treatment of animals

1. Whoever produces for the purpose of sale or circulates substances for the treatment or the prevention of disease in animals or birds where such substances are harmful to their life or health shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article results in the death of a great number of animals or birds, the perpetrator shall be punished by a fine and by imprisonment of three (3) months to three (3) years.
3. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to six (6) months.
4. When the offense provided for in paragraph 2 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.

Article 352

Providing irresponsible veterinarian assistance

1. A veterinarian or an authorized assistant of a veterinarian who, when in providing veterinarian assistance, prescribes or applies obviously inappropriate means or an incorrect method of treatment or fails to use appropriate hygienic measures and thereby causes the deterioration or in general violates the rules of the veterinary profession in the process of treatment and thereby causes sickness, a deterioration of sickness or the death of an animal shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article is committed by negligence the perpetrator shall be punished by a fine or by imprisonment of up to six (6) months.
3. When the offense provided for in paragraph 1 of this Article results in the death of

a great number of animals or birds, the perpetrator shall be punished by imprisonment of three (3) months to three (3) years.

4. When the offense provided for in paragraph 2 of this Article results in the death of a great number of animals or birds, the perpetrator shall be punished by a fine or imprisonment of up to one (1) year.

Article 353

Unlawful practice of veterinarian services

Whoever without the proper professional qualifications undertakes, for compensation, the treatment for animals or offers other veterinarian services shall be punished by a fine or by imprisonment of up to six (6) months.

Article 354

Failure to comply with orders for suppressing diseases in animals and vegetation

1. Whoever, at the time of an epidemic which might endanger livestock, fails to comply with an order or decision issued by a competent authority in accordance with the law providing for measures to suppress or prevent disease shall be punished by a fine or by imprisonment of up to three (3) years.
2. Whoever, during the period of endangerment of vegetation by disease or pest, fails to comply with an order or decision by a competent authority providing for measures to suppress or prevent disease or pest shall be punished as provided for in paragraph 1 of this Article.
3. When the offense provided for in paragraph 1 or 2 of this Article results in considerable damage to property the perpetrator shall be punished by a fine or by imprisonment of up to five (5) years.
4. When the offense provided for in paragraph 1 or 2 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.
5. When the offense provided for in paragraph 3 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to three (3) years.
6. For the purposes of this article, "livestock," means any bovine, goat, equine, bird, poultry, fowl, honey bee, sheep, pig or fish.

Article 355

Pollution of food and water for animals

1. Whoever, by the use of a noxious or harmful substance, pollutes food or water for animals, birds, bees, wild animals or fish or pollutes any water supply whether natural or man-made that provides water for animals, birds, bees, wild animals or fish and thereby endangers the life or health of animals, birds, bees, wild animals or fish shall be punished by a fine or by imprisonment of up to two (2) years.
2. Whoever, by the use of a noxious or harmful substance, pollutes any body of water and thereby endangers the survival of animals, birds, bees, wild animals or fish in the water shall be punished as provided for in paragraph 1 of this Article.

3. When the offense provided for in paragraph 1 or 2 of this Article results in the death of a large number of animals, birds, bees, wild animals or fish of a value exceeding ten thousand (10,000) EUR, the perpetrator shall be punished by a fine and imprisonment of three (3) months to three (3) years.
4. When the offense provided for in paragraph 1 or 2 of this Article is committed by negligence, the perpetrator shall be punished by a fine or imprisonment up to three (3) months. When the offense provided for in paragraph 3 of this Article is committed by negligence, the perpetrator shall be punished by a fine or imprisonment of up to six (6) months.

Article 356

Destruction of vegetation by harmful substances

1. Whoever, contrary to the law and by the use of a harmful substance, causes the destruction of, plants, trees or other vegetation and thereby causes damage of ten thousand (10,000) EUR or more shall be punished by a fine or by imprisonment of up to two (2) years.
2. If the offense provided for in paragraph 1 of this Article is committed against a specially protected, plants, trees or vegetation, the perpetrator shall be punished by a fine or by imprisonment from three (3) months to three (3) years.
3. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or imprisonment of up to six (6) months. When the offense provided for in paragraph 2 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.

Article 357

Devastation of forests

1. Whoever, in violation of the law or an order by a competent authority, cuts or destroys a forest or in any other way devastates forests shall be punished by a fine or by imprisonment of up to two (2) years.
2. When the offense provided for in paragraph 1 of this Article is committed in a protected forest, protected park or any other forest used for a specific purpose the perpetrator shall be punished by a fine or by imprisonment of up to three (3) years.

Article 358

Forest theft

1. Whoever, with the intent to steal, cuts down trees in a forest and the quantity of the timber cut down exceeds two cubic meters shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article is committed with the intent to sell the cut timber; if the quantity of the cut timber exceeds five cubic meters; or, the offense is committed in a protected forest, protected park or any other forest used for a specific purpose, the perpetrator shall be punished by a fine and by imprisonment of three (3) months to three (3) years.

3. An attempt to commit the offense provided for in paragraph 1 of this Article shall be punishable.

Article 359
Unlawful hunting

1. Whoever, hunts wild animals when there is a prohibition on hunting or in the territory where hunting is prohibited, shall be punished by a fine or imprisonment of up to one (1) year.
2. Whoever, without permission or other authorization, hunts or kills a wild animal or traps it alive shall be punished by a fine or by imprisonment of up to six (6) months.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed off season; in a group; or against prey of a value exceeding two thousand (2,000) EUR or importance according to hunting regulations, the perpetrator shall be punished by a fine or by imprisonment of up to two (2) years.
4. Whoever hunts endangered or rare species of animals for which there is a prohibition on hunting or hunts a particular species without a specific hunting license for such species shall be punished by a fine and by imprisonment of three (3) months to three (3) years.
5. Whoever hunts by using methods of mass extermination, by using a motor vehicle or by using a strong light shall be punished by a fine and by imprisonment of three (3) months to three (3) years.
6. The wild animals and the hunting equipment shall be confiscated.

Article 360
Sale or removal of wild animal trophies from the republic of Kosovo

1. Whoever unlawfully sells or removes from the Republic of Kosovo a wild animal trophy shall be punished by a fine or by imprisonment of up to two (2) years.
2. Whoever unlawfully sells or removes from the Republic of Kosovo a wild animal trophy acquired from the commission of the offenses provided for in paragraphs 1 to 3 of Article 359 of this Code shall be punished by a fine or by imprisonment of up to three (3) years.
3. The wild animal trophies shall be confiscated.

Article 361
Sale or removal of protected goods of nature, plants or animals out of the Republic of Kosovo

Whoever unlawfully sells or removes out of the Republic of Kosovo protected goods of nature, plants or animals under special protection shall be punished by a fine or by imprisonment of up to two (2) years.

Article 362
Unlawful fishing

1. Whoever fishes at the time when the fishing is prohibited or in the waters where the fishing is prohibited, shall be punished by a fine or by imprisonment of up to three (3) months.
2. Whoever fishes using explosives, electricity, poison or intoxicating substances and thereby causes the death of fish in such a way as to harm propagation of fish stocks shall be punished by a fine or by imprisonment of up to two (2) years.

Article 363
Damage, destruction and unauthorized removal of protected monuments or objects out of the Republic of Kosovo

1. Whoever damages or destroys a protected cultural, historical, religious, scientific or natural monument or object shall be punished by a fine or by imprisonment of up to two (2) years.
2. When the offense provided for in paragraph 1 of this Article is committed against a protected cultural, historical, religious, scientific or natural monument or an object that has a unique value or if the offense results in serious damage, the perpetrator shall be punished by a fine or by imprisonment of up to three (3) years.
3. Whoever, without proper authorization by a competent authority, removes from the Republic of Kosovo a protected cultural, historical, religious, scientific or natural monument or object shall be punished by a fine or by imprisonment of up to one (1) year.
4. When the offense provided for in paragraph 3 of this Article involves a protected cultural, historical, religious, scientific or natural monument or an object that has a unique value, the perpetrator shall be punished by a fine or by imprisonment of up to three (3) years.
5. For the purposes of this Article, a “protected cultural, historical, religious, scientific or natural monument or object” means an object of veneration of a religious community existing on property dedicated to religious services, a tombstone, grave or some other place of burial, and a public monument, a natural monument, an object of art, science or craft which is kept in a public collection or public exhibition, an object which serves a public need or decorates a public road, square or park, a natural curiosity or an endangered type of animal or plant.
6. An attempt to commit the offense provided for in paragraph 1 or 3 of this Article shall be punishable.

Article 364
Unauthorized work and appropriation of cultural monuments

1. Whoever, without authorization by the competent authority, conducts conservation, restoration or research work on a cultural monument, or, despite a prohibition or without the authorization, carries out archaeological excavations or research and thereby destroys or seriously damages a cultural monument or its

- characteristics shall be punished by a fine or by imprisonment of up to two (2) years.
2. When the offense provided for in paragraph 1 of this Article is committed against a cultural monument of unique value or results in serious damage, the perpetrator shall be punished by a fine and by imprisonment of six (6) months to three (3) years.
 3. Whoever, in the course of archaeological or other research, takes possession of or takes away an object which has been excavated or an object which has been found in some other way and which represents a cultural monument shall be punished as provided for in paragraph 2 of this Article.

CHAPTER XXIX
CRIMINAL OFFENSES AGAINST THE GENERAL SECURITY
OF PEOPLE AND PROPERTY

Article 365
Causing general danger

1. Whoever, by using fire, flood, weapons, explosives, poison or poisonous gas, ionizing radiation, mechanical power, electrical power or any other kind of energy or with any other similar dangerous action or dangerous means causes great danger to human life or considerable damage to property, shall be punished by imprisonment of six (6) months to five (5) years.
2. Whoever, contrary to the obligations imposed by law does not install equipment for protection against fire, flood, explosion, poison or poisonous gases, ionizing radiation, mechanical power, electrical power or any other kind of energy or with any other similar dangerous action or dangerous means, or fails to maintain such equipment in proper condition or fails to put it to use or in general fails to comply with the rules or technical regulations on protective measures and thereby causes great danger to human life or considerable damage, to property shall be punished by imprisonment of one (1) to five (5) years.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed in a place where a large number of people are present, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
4. When the offense provided for in paragraph 1 or 2 of this Article results in grievous bodily injury or substantial damage to property, the perpetrator shall be punished by imprisonment of one (1) to ten (10) years.
5. When the offense provided for in paragraph 1 or 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of three (3) to twelve (12) years.
6. When the offense provided for in paragraph 1 or 2 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to three (3) years.
7. When the offense provided for in paragraph 6 of this Article is committed in a place where a large number of people are present, the perpetrator shall be punished by imprisonment of up to five (5) years.

8. When the offense provided for in paragraph 6 of this Article results in grievous bodily injury or substantial damage to property, the perpetrator shall be punished by imprisonment of up to five (5) years.
9. When the offense provided for in paragraph 6 of this Article results in the death of one (1) or more persons, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 366

Destroying, damaging or removing public installations

1. Whoever destroys, damages or removes installations or equipment for electricity, gas, water, heating, communications, sewage, environmental protection, pipelines, underwater cables, dams or other similar equipment and in this way causes a disturbance to the supply of services to the population or to the economy shall be punished by imprisonment of up to five (5) years.
2. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.
3. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury or substantial damage to property, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
4. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of three (3) years up to twelve (12) years.
5. When the offense provided for in paragraph 2 of this Article results in grievous bodily injury or substantial damage to property, the perpetrator shall be punished by imprisonment of six (6) months up to five (5) years.
6. When the offense provided for in paragraph 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 367

Destroying, damaging or removing safety equipment and endangering work place safety

1. Whoever destroys, damages or removes safety equipment in any workplace and thus endangers human life or causes material damage to property shall be punished by imprisonment of one (1) to eight (8) years.
2. Whoever is responsible for workplace safety and health in any workplace and who fails to install safety equipment, fails to maintain such equipment in working condition, fails to ensure its use when necessary or fails to comply with provisions or technical rules on workplace safety measures and thereby endangers human life or causes considerable damage to property shall be punished by imprisonment of six (6) months to five (5) years.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment of up to three (3) years.

4. When the offense provided for in paragraphs 1 or 2 of this Article results in the grievous bodily injury of one or more persons or substantial damage to property, the perpetrator shall be punished with imprisonment of one (1) to ten (10) years.
5. When the offense provided for in paragraph 3 of this Article results in the grievous bodily injury of one or more persons or substantial material damage, the perpetrator shall be punished with imprisonment of up to five (5) years.
6. When the offense provided for in paragraph 1 or 2 of this Article results in the death of one or more persons, the perpetrator shall be punished with imprisonment from one (1) to twelve (12) years.
7. When the offense provided for in paragraph 3 of this Article results in the death of one or more persons, the perpetrator shall be punished with imprisonment from one (1) to eight (8) years.
8. The court may impose a condition that the perpetrator installs the safety equipment within a specified time limit.

Article 368

Unlawful construction work

1. A responsible person who, in designing, supervising or executing any building or construction work, acts in violation of the law, contrary to generally accepted professional standards or contrary to the terms of a construction permit and thereby endangers the life or body of people or property valued at five thousand (5,000) EUR or more shall be punished by imprisonment of six (6) months to five (5) years.
2. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment of up to three (3) years.
3. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury or considerable damage to property, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
4. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of three (3) to twelve (12) years.
5. When the offense provided for in paragraph 2 of this Article results in grievous bodily injury or considerable damage to property, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
6. When the offense provided for in paragraph 2 of this Article results in death of one (1) or more persons the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 369

Unlawful delivery or transportation of explosives or flammable materials

1. Whoever, in violation of the law transports or delivers for transport explosives or easily flammable materials shall be punished by a fine or by imprisonment of up to one (1) year.

2. When the offense provided for in paragraph 1 this Article is committed by a person who delivers the explosives or easily flammable materials to be transported by public transportation or transports such materials himself or herself using public transportation shall be punished by a fine or imprisonment of up to three (3) years.
3. Whoever in violation of the law delivers explosives or other easily flammable materials to premises where a large number of people convene, where a large number of people are gathered or where a large number of people are expected, shall be punished by imprisonment of six (6) months to three (3) years.
4. If the criminal offense provided for in this Article is committed by negligence, the perpetrator shall be punished by a fine or imprisonment of up to one (1) year.

Article 370
Failure to avoid danger

1. Whoever fails to take measures to prevent fire, flood, explosion, traffic disasters or any other danger to human life or physical safety or property on a large scale even though he or she could have done so without endangering himself, herself or another person, shall be punished by a fine or by imprisonment of up to one (1) year.
2. Whoever prevents or obstructs another person from taking measures to avoid fire, flood, explosion, traffic disasters or any other danger to human life or physical safety or damage to property on a large scale shall be punished by imprisonment of three (3) months to three (3) years.

Article 371
Misusing distress or danger signals

Whoever misuses any distress or danger sign or signal or makes a groundless call for help with the intent to make official persons, or fire fighters take action or not take action shall be punished by a fine or by imprisonment of up to six (6) months.

CHAPTER XXX
WEAPON OFFENSES

Article 372
Unauthorised import, export, supply, transport, production, exchange, brokering or sale of weapons or explosive materials

1. Whoever, in violation of the applicable law relating to weapons or explosive materials imports, exports, buys, supplies, transports, produces, exchanges, brokers or sells weapons or explosive materials shall be punished by a fine of up to seven thousand and five hundred (7,500) EUR and by imprisonment of one (1) to eight (8) years.
2. When the offense provided for in paragraph 1 of this Article involves more than four (4) weapons, more than four (4) explosive materials or more than four hundred (400) bullets, the perpetrator shall be punished by a fine and imprisonment of one (1) to ten (10) years.

3. For the purposes of this Article, “production” of weapons includes conversion or modification of any object to make a weapon or of any weapon into a different type of weapon, or the deactivation or reactivation of any weapon.
4. The weapons, the means for transporting weapons and the means for the production of weapons shall be confiscated.

Article 373

Unlawful obliteration, removal or altering of markings on firearms or ammunition

1. Whoever obliterates removes or alters a marking on a firearm or ammunition or whoever marks a firearm or ammunition with a false marking shall be punished by a fine or imprisonment up to three (3) years.
2. Whoever produces a firearm or ammunition and fails to mark the firearm or ammunition at the time of production in accordance with the applicable law relating to weapons markings shall be punished by a fine and imprisonment of six (6) months to five (5) years.
3. When the offense provided for in paragraphs 1 or 2 of this Article involves more than four (4) weapons, or more than four hundred (400) bullets, the perpetrator shall be punished by a fine and imprisonment of one (1) to five (5) years.
4. For the purpose of this Article “marking” means an identification marking which has been placed on a firearm or ammunition by the producer or by a competent state body.
5. The firearm or ammunition shall be confiscated. Any item used to obliterate, remove or alter a marking or make a false marking shall be confiscated.

Article 374

Unauthorised ownership, control or possession of weapons

1. Whoever owns, controls or possesses a weapon in violation of the applicable law relating to such weapon shall be punished by a fine of up to seven thousand and five hundred (7,500) EUR or by imprisonment of up to five (5) years.
2. When the offense provided for in paragraph 1 of this Article involves more than four (4) weapons, or more than four hundred (400) bullets, the perpetrator shall be punished by imprisonment of two (2) to ten (10) years.
3. The weapon owned, controlled or possessed in violation of this Article shall be confiscated.

Article 375

Use of weapon or dangerous instrument

1. Whoever uses a weapon or explosive in violation of the applicable law relating to such weapon or explosive shall be punished by imprisonment of one (1) to eight (8) years.
2. Whoever uses a weapon or a dangerous instrument in a threatening or intimidating manner shall be punished by a fine of up to ten thousand (10,000) EUR and by imprisonment of one (1) to ten (10) years.

3. The weapon or dangerous instrument used in violation of this Article shall be confiscated.

Article 376

False weapons permits, consents and licences and provision of false information

1. Whoever provides any false information, either verbally or in writing, at any stage of the application procedure for a weapons' or explosives' permit, consent or license shall be punished by a fine of up to five thousand (5,000) EUR or by imprisonment of up to three (3) years.
2. Whoever manufactures, possesses, sells or purchases a fraudulent weapons' or explosives' permit, consent or license shall be punished by a fine of up to five thousand (5,000) EUR or by imprisonment of up to three (3) years.
3. Whoever holds a weapons' or explosives' permit license or other authorization and fails to immediately show the permit, license or other authorization to the police or KFOR upon their request shall be punished by a fine up to two thousand and five hundred (2,500) EUR or by imprisonment of up three (3) months. If the perpetrator's permit or license is not in his or her possession at the time of the request and he or she fails to inform the police or KFOR of the location of the permit, license or other authorization, he or she shall be punished by a fine up to two thousand and five hundred (2,500) EURs or by imprisonment of up three (3) months.
4. Any fraudulent permit, license or other authorization shall be confiscated. The means to manufacture any fraudulent permit, license or other authorization shall be confiscated.

Article 377

Manufacturing and procuring weapons and instruments designed to commit criminal offenses

1. Whoever manufactures, procures or makes it possible for another person to obtain weapons or poisons, or equipment necessary for their manufacture, which he or she knows is destined for the use or commission of a criminal offense shall be punished by imprisonment of three (3) months to five (5) years.
2. Whoever manufactures, procures or makes it possible for another person to obtain a false key, a picklock or some other instrument to be used in burglary, which he or she knows is destined for the use or commission of a criminal offense shall be punished by imprisonment of up to one (1) year.

CHAPTER XXXI

CRIMINAL OFFENSES AGAINST SECURITY OF PUBLIC TRAFFIC

Article 378

Endangering public traffic

1. Whoever violates any law related to road traffic or road transportation and endangers public traffic, human life, physical safety and thereby causes light

- bodily injury or material damage to property shall be punished by a fine or by imprisonment of up to three (3) years.
2. Whoever violates any law related to road traffic or road transportation and thereby endangers railway, tram, trolleybus, bus, lift or water traffic and in this way endangers human life, physical safety or property shall be punished by imprisonment of up to five (5) years.
 3. When the offense in paragraph 2 of this Article results in light bodily harm to a person or damage of fifteen thousand (15,000) EUR or more to property, the perpetrator shall be punished by a fine or by imprisonment of six (6) months to five (5) years.
 4. When the offense provided for in paragraph 1 or 2 of this Article results in grievous bodily injury to any person or damage of twenty thousand (20,000) EUR or more to property, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
 5. When the offense provided for in paragraph 1 or 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of three (3) to twelve (12) years.
 6. When the offense provided for in paragraph 1 or 2 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one (1) year.
 7. When the offense in paragraph 6 of this Article results in light bodily harm to a person or damage of fifteen thousand (15,000) EUR or more to property, the perpetrator shall be punished by a fine or by imprisonment of up to three (3) years.
 8. When the offense provided for in paragraph 6 of this Article results in grievous bodily injury or damage of twenty thousand (20,000) EUR or more to property, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
 9. When the offense provided for in paragraph 6 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 379

Driving while impaired or intoxicated

1. Whoever drives a motor vehicle while impaired or under the influence of alcohol or any other intoxicating substance shall be punished by a fine or imprisonment of up to three (3) years.
2. When the offense in paragraph 1 of this Article results in light bodily harm to a person or damage of five thousand (5,000) EUR or more to property, the perpetrator shall be punished by a fine or by imprisonment of six (6) months to five (5) years.
3. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury to any person or damage of twenty thousand (20,000) EUR or more to property, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
4. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of three (3) to twelve (12) years.

Article 380

Endangering public traffic by dangerous acts or means

1. Whoever destroys, removes or damages installations, equipment, signs or signals designed for traffic safety, or gives erroneous signs or signals or places obstacles on public roads or in any other manner endangers human life or physical safety shall be punished by imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article results in light bodily harm to a person or considerable damage to property, the perpetrator shall be punished by a fine or by imprisonment of six (6) months to five (5) years.
3. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury or substantial damage to property, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
4. When the offense provided for in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of three (3) to twelve (12) years.
5. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or imprisonment of up to one (1) year.
6. When the offense provided for in paragraph 5 of this Article results in light bodily harm to a person or considerable damage to property, the perpetrator shall be punished by a fine or by imprisonment of up to three (3) years.
7. When the offense provided for in paragraph 5 of this Article results in grievous bodily injury or substantial damage to property, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
8. When the offense provided for in paragraph 5 of this Article results in the death of one (1) or more persons, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 381

Irresponsible supervision of public traffic

1. A responsible person entrusted with supervising the conditions and maintenance of roads and objects in these roads, means of transport, the fulfillment of determined working conditions for drivers or a responsible person entrusted with the management of driving who by the irresponsible exercise of his or her duty endangers human life or physical safety or causes damage to property, shall be punished by a fine or imprisonment of up to five (5) years.
2. Whoever is responsible for giving orders for driving or allows another to drive despite knowing that the driver is not able to drive the vehicle in a safe manner due to fatigue, illness, intoxication by alcohol or for other reasons or that the vehicle is not in a proper condition and thereby endangers human life or physical safety or causes damage to property shall be punished as provided for in paragraph 1 of this Article.
3. When the offense provided for in paragraph 1 or 2 of this Article is committed by negligence, the perpetrator shall be punished by a fine or imprisonment of up to three (3) years.

4. When the offense provided for in paragraph 1 or 2 of this Article results in grievous bodily injury or substantial damage to property, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.
5. When the offense provided for in paragraph 1 or 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of three (3) to twelve (12) years.
6. When the offense provided for in paragraph 3 of this Article results in grievous bodily injury or substantial damage to property the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
7. When the offense provided for in paragraph 3 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Article 382

Refraining from providing help to persons injured in traffic accidents

1. The driver of a vehicle or other means of transportation, who fails to provide help to a person who has been injured by that means of transportation, shall be punished by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury, the perpetrator shall be punished by imprisonment of three (3) months to five (5) years.
3. When the offense provided for in paragraph 1 of this Article results in the death of the injured person, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.

Article 383

Misusing international communication signals

Whoever needlessly transmits an internationally accepted communication signal or an internationally used signal of distress or a danger signal, or causes deception that there is no danger or misuses an internationally accepted communication signal shall be punished by imprisonment of three (3) months to three (3) years.

CHAPTER XXXII

CRIMINAL OFFENSES AGAINST THE ADMINISTRATION OF JUSTICE AND PUBLIC ADMINISTRATION

Article 384

Definitions

For purposes of this Chapter, “official proceedings” includes any criminal proceedings as defined in the Criminal Procedure Code of the Republic of Kosovo; proceedings before any court and the Constitutional Court; proceedings before the Assembly of the Republic of Kosovo and municipal assemblies; or any proceeding authorized by law before a Ministry, agency or independent institution of the Republic of Kosovo, including disciplinary proceedings and notary proceedings.

Article 385
Failure to report preparation of criminal offenses

1. Whoever, having knowledge about the preparation of the commission of any offense fails to report the fact at the time when the commission of the offense may still be averted and the offense is committed or attempted shall be punished by a fine or by imprisonment of up to one (1) year.
2. Whoever fails to report the preparation of the commission of one or more of the following criminal offenses shall be punished by imprisonment of three (3) months to three (3) years.
 - 2.1. aggravated murder;
 - 2.2. murder;
 - 2.3. assault with grievous bodily injury;
 - 2.4. any offense in violation of Chapter XIV-Criminal Offenses Against the Constitutional Order and Security of Republic of the Republic of Kosovo;
 - 2.5. any offense in violation of Chapter XV-Criminal Offenses Against Humanity And Values Protected By International Law;
 - 2.6. any offense in violation of Chapter XX-Criminal Offenses Against Sexual Integrity;
 - 2.7. any offense in violation of Chapter XXXIV-Criminal Offenses Against Official Duty;
 - 2.8. any offense in violation of Chapter XXIII-Narcotics Offenses;
 - 2.9. any offense in violation of Chapter XXX-Weapons Offenses.
3. Except for offenses involving child abuse and domestic violence, a person is not criminally liable under paragraph 1 of this Article if he or she is related to the perpetrator of the criminal offense as the parent, child, spouse, sibling, adoptive parent or adopted child or person with whom the perpetrator lives in an extra-marital communion.

Article 386
Failure to report criminal offenses or perpetrators

1. Whoever, having knowledge of the identity of the perpetrator of one or more of the following criminal offenses, fails to report such fact shall be punished by a fine or by imprisonment of up to three (3) years:
 - 1.1. aggravated murder;
 - 1.2. murder;
 - 1.3. assault with grievous bodily injury;
 - 1.4. any offense in violation of Chapter XIV-Criminal Offenses against the Constitutional Order and Security of Republic of the Republic of Kosovo;
 - 1.5. any offense in violation of Chapter XV-Criminal Offenses against Humanity and Values Protected by International Law;
 - 1.6. any offense in violation of Chapter XX-Criminal Offenses against Sexual Integrity;
 - 1.7. any offense in violation of Chapter XXXIV-Criminal Offenses against Official Duty;

- 1.8. any offense in violation of Chapter XXIII-Narcotics Offenses;
- 1.9. any offense in violation of Chapter XXX-Weapons Offenses.
2. An official person or a responsible person who fails to report a criminal offense he or she has discovered in the exercise of his or her duties shall be punished as provided for in paragraph 1 of this Article, if such offense is punishable by imprisonment of at least three (3) years.
3. Except for offenses involving child abuse and domestic violence, a person is not criminally liable under this Article if he or she is related to the perpetrator of the criminal offense as the parent, child, spouse, sibling, adoptive parent or adopted child or person with whom the perpetrator lives in an extra-marital communion.

Article 387

Failure to inform of a person indicted by the international criminal tribunal

1. Whoever, having knowledge of the indictment and whereabouts of a person indicted by the international criminal tribunal and fails to report such whereabouts, although the timely discovery of the wanted person depends on such report, shall be punished by a fine or by imprisonment for a term up to three (3) years.
2. A person is not criminally liable under this Article if he or she is related to the perpetrator of the criminal offense as the parent, child, spouse, sibling, adoptive parent or adopted child or person with whom the perpetrator lives in an extra-marital communion.

Article 388

Providing assistance to perpetrators after the commission of criminal offenses

1. Whoever harbors the perpetrator of any offense other than as provided in paragraph 2 of this Article or aids him or her to elude discovery or arrest by concealing instruments, evidence or in any other way or whoever harbors a convicted person or takes steps towards frustrating the arrest, execution of a punishment or an order for mandatory treatment shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article relates to one or more of the following criminal offenses the perpetrator shall be punished by imprisonment of six (6) months to five (5) years:
 - 2.1. aggravated murder;
 - 2.2. murder;
 - 2.3. assault with grievous bodily injury;
 - 2.4. any offense in violation of Chapter XIV-Criminal Offenses against the Constitutional Order and Security of Republic of the Republic of Kosovo;
 - 2.5. any offense in violation of Chapter XV-Criminal Offenses against Humanity and Values Protected by International Law;
 - 2.6. any offense in violation of Chapter XX-Criminal Offenses against Sexual Integrity;
 - 2.7. any offense in violation of Chapter XXXIV-Official Corruption and Criminal Offenses against Official Duty;

Criminal laws

- 2.8. any offense in violation of Chapter XXIII-Narcotics Offenses;
- 2.9. any offense in violation of Chapter XXX-Weapons Offenses.
3. When the offense provided for in paragraph 1 of this Article relates to a criminal offense punishable by life long imprisonment, the perpetrator shall be punished by imprisonment of one (1) to ten (10) years.
4. The punishment provided for in paragraph 1 of this Article may not be more severe, neither in manner nor in degree, than the punishment prescribed for the criminal offense committed by the perpetrator who was given assistance.
5. Except for offenses involving child abuse and domestic violence, a person is not criminally liable under this Article if he or she is related to the perpetrator of the criminal offense as the parent, child, spouse, sibling, adoptive parent or adopted child or person with whom the perpetrator lives in an extra-marital communion.

Article 389

Accessory to a person indicted by the international criminal tribunal

1. Whoever renders assistance to, or hides a person indicted by the international criminal tribunal or aids such person to elude discovery, shall be punished by imprisonment for a term up to three (3) years.
2. No punishment for the criminal offense referred to in the paragraph 1 of this Article shall be imposed on a person who is the parent, child, spouse, sibling, adoptive parent or adopted child or person with whom the perpetrator lives in an extra-marital communion.

Article 390

False report or charge

1. Whoever falsely reports to an official person charged with the duty to investigate or prosecute that a particular person has committed a criminal offense prosecuted ex officio, while knowing that such person is not the perpetrator, shall be punished by fine or imprisonment of three (3) months to three (3) years.
2. Whoever provides false evidence of a criminal offense or in any other manner causes the initiation of criminal proceedings for an offense prosecuted ex officio against a person whom he or she knows did not commit the offense shall be punished as provided for in paragraph 1 of this Article.
3. Whoever reports that he or she has committed a criminal offense prosecuted ex officio, even though he or she has not committed such offense, shall be punished by a fine or by imprisonment of up to three (3) months.
4. Whoever reports to an official person charged with the duty to investigate or prosecute that a criminal offense which is prosecuted ex officio has been committed, even though he or she knows that the offense has not been committed, shall be punished as provided for in paragraph 3 of this Article.

Article 391
False statement under oath

1. Whoever, having taken an oath before an authority competent to administer affidavits or oaths, and thereafter signs an affidavit or states any matter that he or she does not believe to be true, or knowingly conceals or omits to state any matter relevant to the proceedings shall be punished by a fine or by imprisonment of up to three (3) years.
2. When the declaration provided for in paragraph 1 of this Article has been given in the course of criminal proceedings, the perpetrator shall be punished by a fine or imprisonment of up to five (5) years.
3. When the perpetrator of the criminal offense provided for in paragraph 1 of this Article voluntarily withdraws his or her statement before the end of his or her testimony the court may reduce the punishment.

Article 392
False statements

1. A party, witness, expert witness, translator or interpreter who gives a false statement in court proceedings, minor offence proceedings, administrative proceedings before a notary public or disciplinary proceedings shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the false statement is a basis for the final decision in the proceedings, the perpetrator shall be punished by imprisonment of three (3) months to three (3) years.
3. When the criminal offence provided for in paragraph 1 of this Article results in serious consequences, the perpetrator shall be punished by imprisonment of one (1) to five (5) years.
4. When the perpetrator of the criminal offence provided for in paragraph 1 of this Article voluntarily withdraws his or her statement before a final decision has been issued, the court may reduce the punishment.

Article 393
False statements of co-operative witnesses

1. A co-operative witness who gives a statement or testimony that is false in any relevant part or who purposely omits to state the complete truth to a prosecutor or the police shall be punished by a fine or imprisonment of three (3) months to five (5) years.
2. Whoever commits the offense referred to in paragraph 1 of this Article and subsequently withdraws the statement or testimony and reports or testifies truthfully before the end of his or her interview or testimony shall be punished by a fine of up to five hundred (500) EUR or by imprisonment of up to three (3) months, or the court may waive the punishment if there are mitigating circumstances.

Article 394
Obstruction of evidence or official proceedings

1. Whoever by any means of compulsion or promise of a gift or any other form of benefit with the intent to:
 - 1.1. causes any person to make a false statement, provide a false document or conceal a material fact, in an official proceeding;
 - 1.2. prevents or delays the attendance or testimony of any person in any official proceeding;
 - 1.3. prevents or delays the communication by any person of information relating to the commission of a criminal offense to any police officer or other authorized investigator, prosecutor or judge;
 - 1.4. prevents or delays a person from producing any document or record, in any official proceeding;
 - 1.5. causes any person to alter, remove, conceal, destroy, damage, or render unserviceable, in whole or in part, any record, property, object or documents with the intent to impair the object's availability for use in an official proceeding; or
 - 1.6. causes a person to evade a legal summons to give testimony or produce evidence in an official proceeding;
 - 1.7. induces a witness or an expert to decline to give or to give a false statement in court proceedings, minor offence proceedings, administrative proceedings or in proceedings before a notary public or disciplinary proceedings shall be punished by imprisonment of six (6) months to five (5) years.
2. Whoever, with the intent to prevent or hamper the collection of evidence in court proceedings, minor offences proceedings, administrative proceedings, proceedings before a notary public or disciplinary proceedings, conceals, destroys, damages or renders unserviceable, in whole or in part, the property of another person or a document that may be used as evidence, shall be punished by a fine or by imprisonment of up to three (3) years.
3. Whoever, with the intent to prevent or hamper the collection of evidence in court proceedings or administrative proceedings, removes, shifts or changes the place of any boundary marker, land marker or any other mark designed to mark ownership or real estate or right to use water, or, with the same intent, places such markers in a misleading manner shall be punished as provided for in paragraph 1 of this Article.
4. Whoever in the commission of the offenses provided for in paragraphs 1 to 3 of this Article threatens to use violence or uses violence, shall be punished by imprisonment of at least two (2) years.
5. If the offense provided for in paragraph 1 of this Article is committed against any witness the perpetrator shall be punished by imprisonment of at least three (3) years, and if such offense results in bodily injury, at least five (5) years.

Article 395
Intimidation during criminal proceedings

Whoever uses force or serious threat, or any other means of compulsion, a promise of a gift or any other form of benefit to induce another person to refrain from making a statement or to make a false statement or to otherwise fail to state true information to the police, a prosecutor or a judge, when such information relates to obstruction of criminal proceedings shall be punished by a fine of up to one hundred and twenty-five thousand (125,000) EUR and by imprisonment of two (2) to ten (10) years.

Article 396
Retaliation

1. Whoever takes any action harmful to any person, including interference with lawful employment or livelihood of any person, with the intent to retaliate for providing truthful information relating to the commission or possible commission of any criminal offense to police, an authorized investigator, a prosecutor or a judge, shall be fined and punished by imprisonment of up to three (3) years.
2. Whoever with the intent to retaliate against any official person for any act performed in the course of his or her official duties, kills another person shall be punished by imprisonment of at least fifteen (15) years or lifelong imprisonment.
3. Whoever with the intent to retaliate against any official person for any act performed in the course of his or her official duties attempts to kill another person shall be punished by imprisonment of at least ten (10) years.
4. Whoever, with the intent provided for in paragraphs 1 to 3 of this Article, causes bodily injury or damages the property of any person shall be punished by at least three (3) years, but if the offense occurred in relation to a criminal proceeding, the perpetrator shall be punished by at least the same sentence as the most serious criminal offense that was the subject of the criminal proceeding.

Article 397
Tampering with evidence

1. Whoever, alters, removes, conceals, destroys, damages or renders unserviceable, in whole or in part, any record, property, object or document with the intent to impair the object's availability for use in an official proceeding, shall be punished by a fine or by imprisonment of six (6) months to five (5) years.
2. Whoever, with the intent to prevent or hamper the collection of evidence in court proceedings or administrative proceedings, removes, shifts or changes the place of any boundary marker, land marker or any other mark designed to mark ownership or real estate or right to use water, or, with the same intent, places such markers in a misleading manner shall be punished as provided for in paragraph 1 of this Article.

Article 398
Falsifying documents

1. Whoever draws up a false document, alters a genuine document with the intent to use such document as genuine or knowingly uses a false or altered document as genuine shall be punished by a fine or by imprisonment of up to three (3) years.
2. When the offense provided for in paragraph 1 of this Article is committed in relation to a public document, will, bill of exchange, public or official registry or some other registry kept in accordance with the law the perpetrator shall be punished by a fine or by imprisonment of up to five (5) years.

Article 399
Special cases of falsifying documents

1. A person shall be deemed to have committed the offense of falsifying documents and shall be punished a fine or by imprisonment of up to three (3) years, if such person:
 - 1.1. without authorization completes a letter, blank form, or any other item which has already been signed by another person and fills in a statement that creates a legal relationship;
 - 1.2. deceives another person with regard to the content of any document and such person signs the document thinking that he or she is signing some other document or a document with some other content;
 - 1.3. issues a document on behalf of another person without his or her authorization or on behalf of a person who does not exist;
 - 1.4. issues a document and claims by signing the document that he or she has a position, title or rank, although he or she does not, and such act has a substantial influence on the value of the document; or
 - 1.5. issues a document using a genuine stamp or sign without prior authorization.

Article 400
Violating secrecy of proceedings

1. Whoever, without authorization, reveals information disclosed in any official proceeding which must not be revealed according to law or has been declared to be secret by a decision of the court or a competent authority shall be punished by a fine or by imprisonment of up to one (1) year.
2. Whoever without authorization reveals information on the identity or personal data of a person under protection in the criminal proceedings or in a special program of protection shall be punished by imprisonment of up to three (3) years.
3. If the offense provided for in paragraph 3 of this Article results in serious consequences for the person under protection or the criminal proceedings are made impossible or severely hindered, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
4. If the offense provided for in paragraph 3 of this Article results in the death of the person under protection, the perpetrator shall be punished by imprisonment of at least ten (10) years or lifelong imprisonment.

Article 401
Contempt of court

1. Whoever fails to obey any final order, ruling, decision or judgment of any Court in the Republic of Kosovo or who refuses or obstructs the publication of any final decision or, judgment of such court shall be punished by a fine or imprisonment up to six (6) months.
2. Fines imposed under this article may be daily and may be imposed until the perpetrator complies with the final order, ruling, decision or judgment that is the subject of the action.
3. Where the contempt relates to an action between two private parties, the court may order that the fine be paid to the injured party.

Article 402
Failure to execute court decisions

1. The official or responsible person who refuses to execute any final order, ruling, decision or judgment of any court in the Republic of Kosovo or who fails to execute the decision pursuant to the time frame provided by law or the time frame specified in the decision shall be punished by a fine or imprisonment of up to two (2) years.
2. When the offense provided for in paragraph 1 of this Article causes a severe violation of human rights or substantial material damage, the perpetrator shall be punished by imprisonment of six (6) months of up to five (5) years.
3. If the perpetrator of the criminal offense provided for in paragraph 1 of this Article executes the final decision of the court, the prosecution will not be undertaken.

Article 403
Legalization of false content

1. Whoever misleads a competent authority into certifying any untrue matter designed to serve as evidence of a legal matter in a public document, register or book shall be punished by imprisonment of three (3) months to five (5) years.
2. Whoever uses such a document, register or book even though he or she knows it to be false shall be punished as provided for in paragraph 1 of this Article.

Article 404
Uprising of the persons deprived of liberty

1. Whoever, in the institution where he or she is detained on the basis of a lawful decision ordering the deprivation of liberty, organizes an uprising of persons deprived of liberty with the intent to release themselves by force or to attack jointly the official persons in such institution or to compel, through the use of force or serious threat, any person to do or abstain from doing an act in violation of their duty shall be punished by imprisonment of one (1) to five (5) years.
2. A participant in the uprising provided for in paragraph 1 of this article shall be punished by imprisonment of three (3) months up to one (1) year.

3. When the offense provided for in paragraph 1 of this Article is committed by the use of force or serious threat, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
4. When the perpetrator of the offense provided for in paragraph 1 or 2 of this Article withdraws voluntarily from the uprising before exercising force or serious threat, the court may waive his punishment.

Article 405

Escape of persons deprived of liberty

1. Whoever, escapes from the institution where he or she is detained on the basis of a lawful decision ordering the deprivation of liberty, shall be punished by imprisonment of up to three (3) years.
2. Whoever, by the use of bribery, escapes from the institution where he or she is detained on the basis of a lawful decision ordering the deprivation of liberty shall be punished by imprisonment of up to five (5) years.
3. Whoever, by the use of force or serious threat, escapes from the institution where he or she is detained on the basis of a lawful decision ordering the deprivation of liberty, shall be punished by imprisonment of one (1) to five (5) years.

Article 406

Facilitating the escape of persons deprived of liberty

1. Whoever facilitates the escape of a person who is detained on the basis of a lawful decision ordering the deprivation of liberty, shall be punished by imprisonment of three (3) months to five (5) years.
2. Whoever, by the use of bribery facilitates the escape of a person who is detained on the basis of a lawful decision ordering the deprivation of liberty, shall be punished by imprisonment of three (3) months to five (5) years.
3. Whoever, by use of force or serious threat, facilitates the escape of a person who is detained on the basis of a lawful decision ordering the deprivation of liberty, shall be punished by imprisonment of three (3) months to five (5) years.
4. When the offense provided for in this Article is committed jointly by more than one person, they shall be punished by imprisonment of one (1) to eight (8) years.

Article 407

Unlawful release of persons deprived of liberty

An official person who in abusing his or her position or authorizations, unlawfully releases another person deprived of liberty and entrusted to him or her, aids his or her escape or enables an unlawful connection or correspondence whose purpose is the preparation of escape shall be punished by imprisonment of six (6) months to five (5) years.

Article 408

Unlawful facilitation of the exercise of a profession, activity or duty

Whoever enables another person to exercise a profession, activity or duty, even though he or she knows that a final judgment imposing an accessory punishment has prohibited the person from exercising such profession, activity or duty shall be punished by a fine or imprisonment of three (3) months to three (3) years.

CHAPTER XXXIII

CRIMINAL OFFENSES AGAINST PUBLIC ORDER

Article 409

Obstructing official persons in performing official duties

1. Whoever, by force or serious threat, obstructs or attempts to obstruct an official person in performing official duties or, using the same means, compels him or her to perform official duties shall be punished by imprisonment of three (3) months to three (3) years.
2. Whoever participates in a group of persons which by common action obstructs or attempts to obstruct an official person in performing official duties or, using the same means, compels him or her to perform official duties shall be punished by a fine or by imprisonment of up to three (3) years.
3. The leader or organizer of the group which commits the offense provided for in paragraph 2 of this Article shall be punished by imprisonment of one (1) to five (5) years.
4. When the offense provided for in paragraph 1 or 2 of this Article involves a threat to use a weapon or dangerous instrument or results in bodily injury, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.
5. When the offense provided for in paragraph 1 or 2 of this Article is committed against a judge, a prosecutor, an official of a court, prosecution officer or a person authorized by the court and prosecution office, a police officer, a military officer, a customs officer or a correctional officer during the exercise of their official functions the perpetrator shall be punished by imprisonment of one (1) to five (5) years.
6. When the offense provided for in paragraph 1 or 2 of this Article results in grievous bodily injury, the perpetrator shall be punished by imprisonment of at least five (5) years.

Article 410

Attacking official persons performing official duties

1. Whoever attacks or seriously threatens to attack an official person, judge, prosecutor or a person who assists in performing official duties related to public security or the security of the Republic of Kosovo or maintaining public order shall be punished by imprisonment of three (3) months to three (3) years.
2. When the offense provided for in paragraph 1 of this Article results in light bodily

injury to the official person or his or her assistant or involves a threat to use a weapon or dangerous instrument, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.

3. When the offense provided for in paragraph 1 of this Article, results in grievous bodily injury to the official person or his or her assistant, the perpetrator shall be punished by imprisonment of one (1) to ten (10) years.
4. When the perpetrator of the offense provided for in paragraphs 1, 2 or 3 of this Article is provoked by the unlawful or brutal action of the official person, the court may mitigate the punishment.

Article 411 Call to resistance

1. Whoever calls upon others to resist against or disobey lawful decisions or measures issued by a competent authority or an official shall be punished by imprisonment of up to three (3) years.
2. If the offense provided for in paragraph 1 of this Article results in a severe hindrance or the impossibility of implementing a lawful decision, measure or official action, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years.

Article 412 Participating in a crowd committing a criminal offense and hooliganism

1. Whoever participates in an assembled crowd of more than eight persons which by collective action deprives another person of his or her life, inflicts a grievous bodily injury on another person, causes a general danger, causes damages of twenty thousand (20,000) EUR or more to property or commits other offenses of grave violence, punishable by imprisonment of at least five (5) years or attempts to commit such offenses, shall be punished by imprisonment of six (6) months to five (5) years.
2. The organizer of the crowd referred to in paragraph 1 of this Article shall be punished by imprisonment of two (2) to ten (10) years.
3. Any person, who by his violent actions or helping, or by participating in hooligan actions, throwing things towards persons or citizens, participants in sport activities, or breaking, damaging equipment, public infrastructure, or breaking, damaging equipment and infrastructure and public or private sports objects, alone or in an organized group and that has the purpose to damage official persons, sports participants or security staff in official duty, in open or closed sport fields, performs criminal offence of hooliganism.
4. For criminal offence, defined in paragraph 3 of this Article, there is foreseen the conviction with the fine from two hundred (200) to ten thousand (10.000) EUR for hooliganism with petit consequences or with imprisonment up to five (5) years for hooliganism with serious consequences.

Article 413

Failure to participate in averting a public danger

Whoever, contrary to orders by a competent authority, refuses without a justified reason to participate in averting a danger to human life or property during a fire, flood, earthquake or other disaster shall be punished by a fine or by imprisonment of up to one (1) year.

Article 414

Removing or damaging official stamps or marks

Whoever removes or damages an official stamp or mark affixed by an authorized official for the purpose of securing an object or premises, or whoever, without removal of or damage to the stamp or mark, opens the secured object or enters such premises, or opens the item where such stamp or mark was placed, shall be punished by a fine or imprisonment of up to three (3) years.

Article 415

Taking or destroying official stamps or official documents

Whoever unlawfully takes, hides, destroys, damages or in any other way renders unusable an official stamp, book, file or document belonging to or in the possession of a public entity or another legal person which exercises public authorizations shall be punished by a fine or by imprisonment of up to three (3) years.

Article 416

Destroying or concealing archive materials

Whoever unlawfully destroys, hides or renders unusable archive materials or removes such materials out of the country shall be punished by a fine or by imprisonment of up to three (3) years.

Article 417

Impersonating an official

1. Whoever falsely claims to be an official or military person or wears the insignia of an official or military person without authorization shall be punished by a fine or by imprisonment of up to one (1) year.
2. Whoever, with the intent to obtain a material benefit for himself, herself or another person or to cause damage to another person, falsely claims to be an official or military person or whoever, with the intent to obtain a material benefit for himself, herself or another person or to cause damage to another person and without authorization, wears the insignia of an official or military person or undertakes any action of an official or military person shall be punished by a fine and imprisonment of up to three (3) years.

Article 418
Self justice

1. Whoever arbitrarily exercises a right that he or she believes belongs to him or her instead of referring to a competent authority shall be punished by a fine or by imprisonment of up to six (6) months.
2. Whoever, by use of force or serious threat exercises a right that he or she believes belongs to him or her, instead of referring to a competent authority, shall be punished by imprisonment of up to two (2) years.
3. When the offense provided for in paragraph 2 of this Article is committed by a perpetrator acting as a member of a group, the perpetrator shall be punished by imprisonment of six (6) months to three (3) years.

Article 419
Unlawful provision of legal assistance

1. Whoever, without authorization from a client provides legal assistance shall be punished by a fine or by imprisonment of up to two (2) years.
2. Whoever provides legal assistance without qualifications, licensing or in any other manner contrary to law shall be punished by a fine or by imprisonment of up to three (3) years.
3. Whoever commits the offense in paragraphs 1 or 2 of this Article for remuneration shall be punished by a fine and by imprisonment of up to five (5) years.
4. For the purposes of this law “legal assistance” shall be defined as set forth in the Law on Bar.

Article 420
Disrupting religious ceremonies

1. Whoever unlawfully disrupts or prevents a religious ceremony from taking place shall be punished by a fine or by imprisonment of up to one (1) year.
2. When the offense provided for in paragraph 1 of this Article is committed by the use of force or serious threat, the perpetrator shall be punished by imprisonment of three (3) months to three (3) years.

Article 421
Damaging graves or corpses

1. Whoever without authorization excavates, digs, demolishes, removes, damages, destroys or violates a grave or some other place of burial shall be punished by a fine or by imprisonment of up to one (1) year.
2. Whoever, without authorization removes, damages, destroys or hides a corpse, part of a corpse or the ashes of the deceased shall be punished by a fine or by imprisonment of up to three (3) years.

CHAPTER XXXIV
OFFICIAL CORRUPTION AND CRIMINAL OFFENSES AGAINST
OFFICIAL DUTY

Article 422

Abusing official position or authority

1. An official person, who, by taking advantage of his office or official authority, exceeds the limits of his or her authorizations or does not execute his or her official duties with the intent to acquire any benefit for himself or another person or to cause damage to another person or to seriously violates the rights of another person, shall be punished by imprisonment of six (6) months to five (5) years.
2. For purposes of this Article, the abuse of official position includes, but is not limited to:
 - 2.1. intentionally or knowingly violating a law relating to the official's office, duties or employment;
 - 2.2. intentionally failing to perform any mandatory duty as required by law;
 - 2.3. accepting any gift, fee or advantage of any kind as a result of the performance of an official duty unless the acceptance of the gift, fee or advantage is permitted by law;
 - 2.4. misusing government property, services, personnel, or any other thing of value belonging to the government that has come into the official's custody or possession by virtue of the official's office or employment;
 - 2.5. intentionally subjecting another person to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful; or
 - 2.6. intentionally denying or impeding another in the exercise or enjoyment of any legal right, privilege, power, or immunity.

Article 423

Misusing official information

1. An official person who misuses official information with the intent to acquire any undue gain or advantage for himself or herself or another person shall be punished by a fine and imprisonment of six (6) months to five (5) years.
2. When the official information relates to any procurement action or public auction, the perpetrator shall be punished by a fine and imprisonment of two (2) to eight (8) years.
3. When the offense provided for in paragraph 1 of this Article results in a material benefit or loss exceeding five thousand (5,000) EUR, the perpetrator shall be punished by a fine and imprisonment of one (1) to eight (8) years.
4. When the offense provided for in paragraph 1 of this Article results in a material benefit or loss exceeding fifty thousand (50,000) EUR, the perpetrator shall be punished by a fine and imprisonment of three (3) to twelve (12) years.
5. For purposes of this Article "official information" means information that he or she has access to by means of his office or employment and which has not been made public.

Article 424
Conflict of interest

1. An official person who participates personally in any official matter in which he or she, a member of the family, or any related legal person, has a financial interest shall be punished by a fine or imprisonment up to three (3) years.
2. When the official matter is a procurement action or public auction, the perpetrator shall be punished by imprisonment of one (1) to five (5) years.
3. For purposes of this Article, “participates” means exercising official authority through decision, approval, disapproval, recommendation, rendering advice, investigation, or otherwise exercising influence over an official matter.
4. For purposes of this Article, “official matter” means a judicial or other official proceeding; an application, request for a ruling or other official determination; a contract or claim; a public auction or other procurement action; or, another matter affecting the financial or personal interests of the official or another person.
5. For purposes of this Article, “related legal person” means any legal person in which the official or a member of the family has a financial relationship, including a relationship or a prospective relationship as a responsible person or employee.

Article 425
Misappropriation in office

1. An official person, who, with the intent to obtain an unlawful material benefit for himself, herself or another person, appropriates property entrusted to him or her because of his or her duty or position shall be punished by a fine and imprisonment of six (6) months to five (5) years.
2. When the offense provided for in paragraph 1 of this Article results in a material benefit or loss exceeding five thousand (5,000) EUR, the perpetrator shall be punished by a fine and imprisonment of one (1) to eight (8) years.
3. When the offense provided for in paragraph 1 of this Article results in a material benefit or loss exceeding fifty thousand (50,000) EUR, the perpetrator shall be punished by a fine and imprisonment of three (3) to twelve (12) years.

Article 426
Fraud in office

1. An official person who, with the intent to obtain unlawful material benefit for himself, herself or another person, by presenting a false statement of an account or in any other way deceives an authorized person into making an unlawful disbursement shall be punished by a fine and imprisonment of six (6) months to five (5) years.
2. When the offense provided for in paragraph 1 of this Article results in a material benefit exceeding five thousand (5,000) EUR, the perpetrator shall be punished by a fine and imprisonment of one (1) to eight (8) years.
3. When the offense provided for in paragraph 1 of this Article results in a material benefit exceeding fifty thousand (50,000) EUR, the perpetrator shall be punished by a fine and imprisonment of three (3) to twelve (12) years.

Article 427
Unauthorised use of property

Whoever, without authorization, uses money, securities or other movable property which has been entrusted to him or her in his or her duty or generally in his or her workplace or which has been made accessible to him or her because of his or her service or work or whoever confers such property on another person for unauthorized use shall be punished by a fine or by imprisonment of up to three (3) years.

Article 428
Accepting bribes

1. An official person who requests or receives, directly or indirectly, any undue gift or advantage, for himself, herself or for another person, or who accepts an offer or promise of such gift or advantage, so that the official person acts or refrains from acting in accordance with his or her official duties, shall be punished by fine and imprisonment of six (6) months to five (5) years.
2. An official person who requests or receives, directly or indirectly, any undue gift or advantage, for himself or herself or for another person, or accepts an offer or promise of such gift or advantage, so that the official person acts or refrains from acting, in violation of his or her official duties, shall be punished by fine and imprisonment of three (3) to twelve (12) years.
3. When the offense under paragraph 1 of this Article results in a benefit exceeding fifteen thousand (15,000) EUR, the perpetrator shall be punished by fine and imprisonment of one (1) to eight (8) years.

Article 429
Giving bribes

1. Whoever promises, offers or gives, directly or indirectly, any undue gift or advantage to an official person so that the official person acts or refrains from acting in accordance with his or her official duties, shall be punished by a fine or imprisonment of up to three (3) years.
2. Whoever promises, offers or gives, directly or indirectly, any undue gift or advantage to an official person so that the official person acts or refrains from acting, in violation of his or her official duties, shall be punished by a fine and imprisonment of three (3) months to three (3) years.
3. When the offense under paragraph 1 of this Article results in a benefit exceeding fifteen thousand (15,000) EUR, the perpetrator shall be punished by fine and imprisonment of one (1) to eight (8) years.
4. When the perpetrator of the offense provided for in paragraph 1 or 2 of this Article gave the bribe at the request of an official person or responsible person and reported the offense before it was discovered or before knowing that the offense was discovered, the court may waive the punishment.

Article 430
Giving bribes to foreign public official

1. Whoever promises, offers or gives, directly or indirectly, any undue gift or advantage to a foreign public official, so that the foreign public official or another person, acts or refrains from acting in the exercise of his or her official duties, shall be punished by a fine and imprisonment of up to five (5) years.
2. Whoever promises, offers or gives, directly or indirectly, any undue gift or advantage to a foreign public official, so that the foreign public official or another person, acts or refrains from acting in violation of his or her official duties, shall be punished by a fine and imprisonment of one (1) to five (5) years.
3. When the offense under paragraph 1 of this Article results in a benefit exceeding fifteen thousand (15,000) EUR, the perpetrator shall be punished by fine and imprisonment of one (1) to eight (8) years.
4. The gift or benefit offered or received in violation of this Article shall be confiscated.

Article 431
Trading in influence

1. Whoever requests or receives, directly or indirectly, any undue gift or advantage, for himself or herself or for another person, or accepts an offer or promise of such gift or advantage, in order to exert an improper influence over the decision making of an official person or foreign public official, whether or not the influence is exerted and whether or not the supposed influence leads to the intended result, shall be punished by a fine or by imprisonment of up to eight (8) years.
2. Whoever promises, offers or gives, directly or indirectly, any undue gift or advantage to another person, for himself or herself or another person, in order that this person exert an improper influence over the decision making of an official person or foreign public official, whether or not the influence is exerted or not and whether or not the supposed influence leads to the intended result, shall be punished by a fine or by imprisonment of up to five (5) years.
3. The gift or benefit received or offered in violation of this Article shall be confiscated.

Article 432
Issuing unlawful judicial decisions

A judge who, with the intent to obtain any unlawful benefit for himself, herself or another person or cause damage to another person, issues an unlawful decision shall be punished by a fine and imprisonment of six (6) months to five (5) years.

Article 433
Disclosing official secrets

1. An official person who, without authorization, communicates, sends, or in some other way makes available to another person information which constitutes an

official secret or obtains such information with the intent to convey it to an unauthorized person shall be punished by imprisonment of six (6) months to three (3) years.

2. When the offense provided for in paragraph 1 of this Article is committed for personal gain or for the purpose of publishing or using the information outside of the Republic of Kosovo, the perpetrator shall be punished by a fine and imprisonment of one (1) to ten (10) years.
3. When the offense provided for in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to three (3) years.
4. The provisions of this Article shall apply to a person who discloses an official secret after his or her official status has ceased.
5. For the purposes of this Article, the term “official secret” means information or documents proclaimed by law, other provisions, or by a decision by the competent authority issued on the basis of law to be an official secret and whose disclosure has caused or might cause detrimental consequences. However, the following are not official secrets:
 - 5.1. information or documents that pertain to grave violations of basic human rights or which the failure to disclose could endanger the constitutional order or security of the Republic of Kosovo; or,
 - 5.2. information and documents that are intended to conceal the perpetrator of a criminal offense punishable by imprisonment of at least five (5) years.

Article 434

Falsifying official document

1. An official person who, in an official document, official register or file, enters false information or fails to enter essential information or with his or her signature or official stamp certifies a document, official register or file which contains false data or enables the compilation of such document, register or file with false contents shall be punished by imprisonment of six (6) months to five (5) years.
2. An official person who uses a false document, official register or file as if it were true in his or her duty or business activity or who destroys, hides, damages or in any other way renders unusable the document, official register or file shall be punished as provided for in paragraph 1 of this Article.

Article 435

Unlawful collection and disbursement

1. An official person who collects from another something that such person is not bound to pay or collects more than such person is bound to pay or who, in a payment or delivery pays or delivers less than what is required shall be punished by a fine or by imprisonment of up to one (1) year.
2. If the value of the payments or delivery, provided for in paragraph 1 of this Article, exceeds fifteen thousand (15,000) EUR, the perpetrator shall be punishment by imprisonment up to three (3) years.

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3. An attempt to commit the offense provided for in paragraph 1 of this Article shall be punishable.

Article 436
**Unlawful appropriation of property during a search or execution
of a court decision**

An official person who, during a search of premises or a person or during the execution of a court decision, takes movable property with the intent of obtaining an unlawful material benefit for himself, herself or another person shall be punished by imprisonment of six (6) months to five (5) years.

Article 437
**Failure to report or falsely reporting property, revenue/income, gifts,
other material benefits or financial obligations**

1. Any person, obligated by law to file a declaration of property, income, gifts, other material benefits or financial obligations, who fails to do so, shall be punished by a fine or by imprisonment of up to three (3) years. The offense in paragraph 1 of this Article is deemed committed when the deadline for filing the declaration has passed and no report has been filed.
2. Any person, obligated by law to file a declaration of property, income, gifts, other material benefits or financial obligations, who falsifies or omits data or required information on the required declaration shall be punished by a fine and imprisonment of six (6) months to five (5) years.
3. The value of the non-reported or the falsely reported property, income, gifts, or other material benefits shall be confiscated.

CHAPTER XXXV
TRANSITIONAL AND FINAL PROVISIONS

Article 438
Continuation of criminal sanctions

All criminal sanctions for acts still criminalized by this Code and imposed by final judgments before the entry into force of this Code shall continue with the same duration or to the same extent.

Article 439
Repeal of legal and sub-legal acts

Provisions in UNMIK Regulations and the Criminal Code of the Republic of Kosovo UNMIK REG 2003/25 covering matters addressed in the Criminal Code of Kosovo shall cease to have effect upon the entry into force of this Code.

Article 440

References to criminal code articles in other laws, the UNMIK regulations and the Criminal Code of the Republic of Kosovo

1. A chart outlining the old and new Article numbers is attached to and adopted with this Code.
2. This chart shall apply to all laws and regulations in the Republic of Kosovo.
3. All references to Articles in other laws of the Republic of Kosovo, the UNMIK Regulations (REG 2003/25) or the Criminal Code of the Republic of Kosovo shall refer to the new Article numbers as set forth in this chart.
4. The provisions of the Criminal Code of the Republic of Kosovo take precedence over all other legal and sub-legal provisions related to criminal offenses and penalties.

Article 441

Transitional provisions for the jurisdiction of special prosecution office of the Republic of Kosovo

1. With the entry into force of this Criminal Code of the Republic of Kosovo in addition to the exclusive competence under Article 5.1 and Article 5.2 of the Law on the Special Prosecution Office of the Republic of Kosovo, the Special Prosecution Office of the Republic of Kosovo shall have also exclusive competence to investigate and prosecute the following crimes and the attempt and collaboration offenses related to such offenses:
 - 1.1. commission of the Offence of Terrorism, Recruitment for Terrorism, Training for Terrorism, Incitement to Commit a Terrorist Offence, and Concealment or Failure to Report Terrorists and Terrorist Groups as set forth in Articles 136, 139, 140, 141 and 142 of this Code;
 - 1.2. failure to Report Preparation of Criminal Offenses, Failure to Report Criminal Offenses or Perpetrators and Providing Assistance to Perpetrators After the Commission of Criminal Offences as set forth in Articles 385, 386 and 388 of this Code when these offences are committed in relation to Terrorism or the Assistance in the Commission of Terrorism as set forth in Articles 136 and 137 of this Code;
 - 1.3. preparation of Terrorist Offences or criminal offences against the Constitutional Order and Security of the Republic of Kosovo as set forth in Articles 136-142 and 144 of this Code when these offenses are committed in relation to terrorism related offences;
 - 1.4. facilitation of the Commission of Terrorism and Organization and Participation in a Terrorist Group as set forth in Articles 138 and 143 of this Code;
 - 1.5. genocide as set forth in Article 148 of this Code;
 - 1.6. crimes against Humanity as set forth in Article 149 of this Code;
 - 1.7. war Crimes in Grave Breach of the Geneva Conventions, War Crimes in Serious Violation of Laws and Customs Applicable in International Armed Conflict, War Crimes in Serious Violation of Article 3 Common to the

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- Geneva Conventions, War Crimes in Serious Violation of Laws and Customs Applicable in Armed Conflict not of an International Character as set forth in Articles 150-153 of this Code;
- 1.8. attacks in Armed Conflict not of an International Character Against Installations Containing Dangerous Forces as set forth in Article 154 of this Code;
 - 1.9. conscription or Enlisting of Persons between the Age of Fifteen (15) and Eighteen (18) years in Armed Conflict as set forth in Article 155 of this Code;
 - 1.10. employment of Prohibited Means or Methods of Warfare as set forth in Articles 156 of this Code;
 - 1.11. organization of Groups to Commit Genocide, Crimes Against Humanity and War Crimes as set forth in Article 160 of this Code;
 - 1.12. endangering Internationally Protected Persons as set forth in Article 173 of this Code;
 - 1.13. unlawful Appropriation, Use, Transfer and Disposal of Nuclear Material as set forth in Article 176 of this Code;
 - 1.14. threats to Use or Commit Theft or Robbery of Nuclear Material as set forth in Article 177 of this Code;
 - 1.15. organized Crime as set forth in Article 275 of this Code;
 - 1.16. intimidation During Criminal Proceedings for Organized Crime as set forth in Articles 395 of this Code;
 - 1.17. money laundering as set forth in Article 308 of this Code and other criminal offences listed in Chapter IV of the Law on the Prevention of Money Laundering and Terrorist Financing.
2. With the entry into force of this Criminal Code in addition to the subsidiary competence under article 9.1 and article 9.2 of the Law on the Special Prosecution Office of the Republic of Kosovo, the Special Prosecution Office of the Republic of Kosovo shall have also subsidiary competence, according to the modalities set forth in Article 10 of the Law on the Special Prosecution Office of the Republic of Kosovo, to investigate and prosecute the following crimes, and the attempt and collaboration offenses related to such crimes:
- 2.1. assault on the Constitutional Order of the Republic of Kosovo as set forth in paragraph 1 of Article 121 of this Code;
 - 2.2. inciting National, Racial, Religious or Ethnic Hatred, Discord or Intolerance as set forth in Article 147 of this Code;
 - 2.3. hijacking Aircraft as set forth in Article 164 of this Code;
 - 2.4. endangering Civil Aviation Safety (art.165 of this Code), Endangering Maritime Navigation Safety (art.166 of this Code), Endangering the Safety of Fixed Platforms Located on the Continental Shelf (art.167 of this Code), Piracy (art.168 of this Code) as set forth in Articles;
 - 2.5. smuggling of Migrants as set forth in Article 170 of this Code;
 - 2.6. trafficking in Persons as set forth in Article 171 of this Code;
 - 2.7. sexual Services of Victims of Trafficking as set forth in Article 231 of this Code;
 - 2.8. inducing Sexual Acts by False Promise of Marriage as set forth in Article 240 of this Code;

- 2.9. providing Premises for Prostitution as set forth in Article 242 of this Code;
- 2.10. unlawful transplantation and Trafficking of Human Organs and Tissues as set forth in Article 265 of this Code;
- 2.11. endangering United Nations and Associated Personnel as set forth in Article 174 of this Code;
- 2.12. murder (art. 178), Aggravated Murder as set forth in Article.179 of this Code;
- 2.13. hostage Taking as set forth in Article 175 of this Code;
- 2.14. violating Equal Status of Citizens and Residents of Kosovo as set forth in Article 193 of this Code;
- 2.15. kidnapping as set forth in Article 194 of this Code;
- 2.16. torture as set forth in Article 199 of this Code;
- 2.17. criminal Offences against Sexual Integrity as set forth in Articles 230- 243 of this Code when such offenses are punishable by five (5) or more years of imprisonment;
- 2.18. unauthorized Purchase, Possession, Distribution and Sale of Narcotic Drugs, Psychotropic Substances and Analogues (art. 273 of this Code), Unauthorized Production and Processing of Narcotic Drugs, Psychotropic Substances and Analogues (art.274 of this Code), Organizing, managing of Financing Trafficking in Narcotic Drugs or Psychotropic Substances as set forth in Article 279 of this Code;
- 2.19. causing Bankruptcy (Art. 286 of this Code), Defrauding or Damaging Creditors or Debtors as set forth in Articles 289 of this Code, Misuse of Economic Authorization (Art. 290 of this Code), Entering into Harmful Contracts (art.291 of this Code), Causing False Bankruptcy (art.287 of this Code), Fraud in Bankruptcy Proceedings (art.288 of this Code);
- 2.20. counterfeit Money set forth in Article 302 of this Code, Production, Supply, Selling, Possession or Provision for Use of Counterfeiting Means as set forth in Article 304 of this Code;
- 2.21. agreements in Restriction of Competition Upon Invitation to Tender as set forth in Article 309 of this Code;
- 2.22. fraud in Trading with Securities as set forth in Article 310 of this Code;
- 2.23. abuse of Insider Information as set forth in Article 311 of this Code;
- 2.24. Government Securities Collusion and Fraud as set forth in Article 312 of this Code;
- 2.25. false Tax Related Documents as set forth in Article 314 of this Code
- 2.26. organizing Pyramid Schemes and Unlawful Gambling set forth in Article 300 of this Code, Tax Evasion set forth in Article 313 of this Code;
- 2.27. unjustified Acceptance of Gifts set forth in Article 315 of this Code, Unjustified Giving of Gifts as set forth in Article 316 of this Code;
- 2.28. theft in the Nature of Robbery or Robbery as set forth in paragraph 2 and 3 of Article 328 of this Code;
- 2.29. fraud as set forth in Article 335 of this Code;
- 2.30. extortion as set forth in Article 340 of this Code;
- 2.31. unauthorized Import, Export, Supply, Transport, Production, Exchange, Brokerage or Sale of Weapons or Explosive Materials as set forth in Article 372 of this Code;

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- 2.32. participating in a Crowd Committing a Criminal Offence as set forth in Article 412 of this Code;
- 2.33. abusing Official Position or Authority Accepting Bribes Giving Bribes as set forth in Article 422, 428 429 of this Code;
- 2.34. misappropriation in Office Fraud in Office as set forth in Articles 425 and 426 of this Code;
- 2.35. fraud Related to Receiving Funds from European Community as set forth in Article 337 of this Code;
- 2.36. conflict of Interests as set forth in Article 424 of this Code.

Article 442

Transitional provisions for the jurisdiction of Eulex judges and prosecutors in criminal proceedings

1. With the entry into force of this Criminal Code the EULEX judges and prosecutors assigned to criminal proceedings will have jurisdiction and competence over any case that can be investigated or prosecuted by the Special Prosecution Office of the Republic of Kosovo.
2. Before the commencement of the relevant stage of the proceeding, upon petition of the EULEX Prosecutor assigned to the case or working in the mixed team identified in Articles 9 and 10 of the Law on the Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo, or upon petition of any of the parties to the proceeding, or upon a written request of the President of the competent court or of the General Session or of the Supreme Court of Kosovo where the provisions related to the disqualification of a judge or lay judge foreseen by the Criminal Procedure Code of Kosovo are not applicable, the President of the Assembly of EULEX Judges will have the authority, for any reason when this is considered necessary to ensure the proper administration of justice, to assign EULEX judges to the respective stage of a criminal proceeding, according to the modalities on case selection and case allocation developed by the Assembly of the EULEX Judges and in compliance with the Law on the Jurisdiction, Case selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo, in addition to the crimes foreseen in Article 3.3 of the Law on the Jurisdiction, Case selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo for the following crimes when the investigation or prosecution is not conducted by the Special Prosecution Office of the Republic of Kosovo:
 - 2.1. assault on the Constitutional Order of the Republic of Kosovo as set forth in paragraph 1 of Article 121 of this Code;
 - 2.2. inciting National, Racial, Religious or Ethnic Hatred, Discord or Intolerance as set forth in Article 147 of this Code;
 - 2.3. 2.3.hijacking Aircraft, Endangering Civil Aviation Safety, Endangering Maritime Navigation Safety, Endangering the Safety of Fixed Platforms located on the Continental Shelf and Piracy as set forth in Articles 164-168 of this Code;
 - 2.4. smuggling of Migrants as set forth in Article 170 of this Code;
 - 2.5. trafficking in Persons as set forth in Article 171 of this Code;

- 2.6. sexual services of Victims of Trafficking as set forth in Article 231 of this Code;
- 2.7. inducing Sexual Acts by False Promise of Marriage as set forth in Article 240 of this Code;
- 2.8. providing Premises for Prostitution as set forth in Article 242 of this Code;
- 2.9. unlawful Transplantation and Trafficking of Human Organs and Tissues as set forth in Article 265 of this Code;
- 2.10. endangering United Nations and Associated Personnel as set forth in Article 174 of this Code;
- 2.11. murder and Aggravated Murder as set forth in Articles 178 and 179 of this Code;
- 2.12. hostage Taking and Kidnapping as set forth in Articles 175 and 194 of this Code;
- 2.13. violating Equal Status of Citizens and Residents of Kosovo as set forth in Article 193 of this Code;
- 2.14. torture by as set forth in Article 199 of this Code;
- 2.15. criminal Offences Against Sexual Integrity as set forth in Articles 230-243 of this Code in any time are punishable with imprisonment of five (5) or more years taking into consideration the maximum of possible penalty for the offense foreseen by Law;
- 2.16. unauthorized Purchase, Possession, Distribution and Sale of Narcotic Drugs, Psychotropic Substances and Analogues, Unauthorized Production and Processing of Narcotic Drugs, Psychotropic Substances and Analogues, Organizing, Managing of Financing Trafficking in Narcotic Drugs or Psychotropic Substances as set forth in Articles 273, 274 and 279 of this Code;
- 2.17. causing Bankruptcy, Defrauding or Damaging Creditors or Debtors, Misuse of Economic Authorization, Entering into Harmful Contracts, Causing False Bankruptcy and Fraud in Bankruptcy Proceedings as set forth in Articles 286-291 of this Code;
- 2.18. counterfeit Money and Production, Supply, Selling, Possession or Provision for Use of Counterfeiting Means as set forth in Articles 302 and 304 of this Code;
- 2.19. agreements in Restriction of Competition Upon Invitation To Tender as set forth in Article 309 of this Code;
- 2.20. fraud in Trading With Securities as set forth in Article 310 of this Code;
- 2.21. abuse of Insider Information as set forth in Article 311 of this Code;
- 2.22. Government Securities Collusion and Fraud as set forth in Article 312 of this Code;
- 2.23. false Tax Related Documents as set forth in Article 314 of this Code;
- 2.24. organizing Pyramid Schemes and Unlawful Gambling (Art.300 of this Code), Tax Evasion as set forth in Article 313 of this Code;
- 2.25. unjustified Acceptance of Gifts (Art.315 of this Code), Unjustified Giving of Gifts as set forth in Article 316 of this Code;
- 2.26. theft in the Nature of Robbery or Robbery as set forth in Articles paragraphs 2 and 3 of Article 328 of this Code;

Criminal laws

- 2.27. fraud and Extortion as set forth in Articles 335 and 340 of this Code;
- 2.28. unauthorized Import, Export, Supply, Transport, Production, Exchange, Brokerage or Sale of Weapons or Explosive Materials as set forth in Article 372 of this Code;
- 2.29. participating in a Crowd Committing a Criminal Offence as set forth in Article 412 of this Code;
- 2.30. abusing Official Position or Authority, Accepting Bribes and Giving Bribes as set forth in Articles 422, 428 and 429 of this Code;
- 2.31. misappropriation in Office and Fraud in Office as set forth in Articles 425-426 of this Code;
- 2.32. fraud Related To Receiving Funds from European Community as set forth in Article 337 of this Code;
- 2.33. conflict of Interests as set forth in Article 424 of this Code.

Article 443

Transitional provisions for the jurisdiction of the Kosovo intelligence agency

1. With the entry into force of this Criminal Code the Kosovo Intelligence Agency will have jurisdiction and competence to collect information on any case involving the criminal offenses set forth in the following Chapters:
 - 1.1. criminal Offenses Against the Constitutional Order and Security of the Republic of Kosovo as set forth in Chapter XIV of this Code;
 - 1.2. criminal Offenses Against Humanity and Values Protected by International Law as set forth in Chapter XV of this Code;
 - 1.3. criminal Offenses Against Public Health as set forth in Chapter XXII of this Code;
 - 1.4. narcotic Drug Offenses as set forth in Chapter XXIII of this Code;
 - 1.5. organized Crime as set forth in Chapter XXIV of this Code;
 - 1.6. criminal Offenses against the General Security of People and Property as set forth in Chapter XXIX of this Code;
 - 1.7. weapons Offenses as set forth in Chapter XXX of this Code.

Article 444

Entry into force

The Criminal Code of Republic of Kosovo shall enter into force on 1 January 2013.

Code No. 04/L-082
20 April 2012

Pursuant to the article 80, paragraph 4 of the Constitution of the Republic of Kosovo, Law shall be published in the Official Gazette of the Republic of Kosovo.

OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 19 / 13 JULY 2012, PRISTINA

**LAW No. 04/L-129
ON AMENDING AND SUPPLEMENTING THE CRIMINAL CODE
OF THE REPUBLIC OF KOSOVO NO. 04/L-082**

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo;

Approves:

**LAW ON AMENDING AND SUPPLEMENTING THE CRIMINAL CODE
OF THE REPUBLIC OF KOSOVO NO. 04/L-082**

**Article 1
Purpose**

This Law aims to remove Articles 37, 38 and 39 of the Criminal Code of the Republic of Kosovo.

**Article 2
Repeals in the Criminal Code of the Republic of Kosovo**

Articles 37, 38 and 39 of the Criminal Code of the Republic of Kosovo shall be deleted.

**Article 3
Entry into force**

This Law shall enter into force on January 1, 2013.

**Law No. 04/L-129
19 October 2012**

**Promulgated by Decree No.DL-048-2012, dated 02.11.2012, President of the
Republic of Kosovo Atifete Jahjaga.**

**OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 30 / 09
NOVEMBER 2012, PRISTINA**

CODE No. 03/L-193
JUVENILE JUSTICE CODE

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Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Adopts

JUVENILE JUSTICE CODE

FIRST PART

GUIDING PRINCIPLES AND INTRODUCTORY PROVISIONS

CHAPTER I

Article 1

Purpose of Law

This Code regulates the procedure of imposed and execution of measures and sentence against the minor, court procedure and mediation procedure for the minor.

Article 2

Definitions

1. Terms used in this Code shall have the following meanings:
 - 1.1. **Child** - a person who is under the age of eighteen (18) years.
 - 1.2. **Minor** - a person who is between the ages of fourteen (14) and eighteen (18) years.
 - 1.3. **Young juvenile**- a person who is between the ages of fourteen (14) years and sixteen (16) years.
 - 1.4. **Adult juvenile**- a person who is between the ages of sixteen (16) years and eighteen (18) years.
 - 1.5. **Young adult**- a person who is between the ages of eighteen (18) years and twenty-one (21) years.
 - 1.6. **Juvenile** - a child or a young adult.
 - 1.7. **Adult** - a person who has reached the age of eighteen (18) years.
 - 1.8. **Specialized education** - an educational program tailored to the special needs of the offender to promote his or her overall proper development and reduce the chance of recidivism.
 - 1.9. **Juvenile imprisonment** - a punishment of imprisonment imposed on a minor offender or, in accordance with Chapter IV of the present Code, on an adult.
 - 1.10. **Special care facility** - an institution that provides treatment for a mental, psychological, social or physical disability.
 - 1.11. **Guardianship Authority** - the department operating within the Centre for Social Work that is responsible for the protection of children.
 - 1.12. **Juvenile judge** - a professional judge who has expertise in criminal matters involving children and young adults and who is competent to exercise the responsibilities set forth in the present Code.

- 1.13. **Prosecutor for juveniles** - a professional Prosecutor who has expertise in criminal matters involving children and young adults and who is competent to exercise the responsibilities set forth in the present Code.
- 1.14. **Juvenile panel** - a panel which is constituted in accordance with Chapter X of the present Code to include at least one (1) juvenile judge and which is competent to exercise the responsibilities set forth in the present Code.
- 1.15. **Probation service**- the institution which does the execution of measures and alternative penalties.

Article 3 **Guiding Principles**

1. The juvenile justice system shall emphasize the well-being of the juvenile and ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the criminal offence.
2. Minor offenders shall be considered for diversity measures and educational measures where appropriate.
3. Deprivation from liberty shall be imposed only as a last resort and shall be limited to the shortest possible period of time. During the time of deprivation from liberty imposed as a penalty, a minor offender shall receive educational, psychological and, if necessary, medical assistance to facilitate his or her rehabilitation.
4. A child participating in criminal proceedings shall be given an opportunity to express himself or herself freely.
5. Every minor deprived of liberty shall be treated with humanity for the inherent dignity of the human person, and in a manner which takes into consideration the needs of persons of his or her age. In particular, every minor deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through the correspondence and visits, save in exceptional circumstances as defined by law.
6. Every minor deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before an independent and impartial court, and to prompt proceedings.
7. The child's right to privacy shall be respected at all stages in order to avoid harm being caused to him or her by undue publicity or by the process of labeling. In principle, no information that may lead to the identification of a minor offender shall be published.

Article 4 **Scope of Application**

1. The provisions of the present Code shall apply to any person charged with a criminal offence committed as a minor, regardless of his or her age at the time when proceedings are instituted.
2. The provisions of the present Code shall apply to any person charged with a criminal offence committed as a young adult.

3. When an adult is charged with a criminal offence committed as a minor, Articles 44 and 48 of the present Code shall not apply.

Article 5

The provisions of the Criminal Code of Kosovo, the Kosovo Code of Criminal Procedure, the Law on Execution of Penal Sanctions and any other relevant legislation shall apply to minors, unless otherwise regulated by the present Code.

Article 6

1. At any time, the juvenile judge may impose appropriate measures to protect the rights and well-being of a child, including placing the child in a shelter or an educational or similar establishment, placing the child under the supervision of the Guardianship Authority or transferring the child to another family, if it is necessary to separate the child from the environment in which he or she has lived or to offer help, assistance, protection or shelter for the child. The juvenile judge shall inform the Guardianship Authority of any measure imposed.
2. The Guardianship Authority or the authorized representative of a child may request a juvenile judge to impose appropriate measures to protect the rights and well-being of the child.
3. The costs of accommodation of the minor shall be paid from budgetary resources and shall be included in the costs of criminal proceedings.

SECOND PART

CHAPTER II APPLICABLE MEASURES AND PUNISHMENTS

Article 7

Measures and punishments applicable to Minors

1. The measures that may be imposed on minors are diversity measures and educational measures.
2. The punishments that may be imposed on minors are fines, orders for community service work and juvenile imprisonment.
3. Only measures may be imposed on minors who have not reached the age of sixteen (16) years at the time of the commission of a criminal offence.
4. The duration of any imposed measure or punishment must be established in the decision of the court in accordance with the present Code.
5. When the court imposes a punishment of juvenile imprisonment of up to two (2) years or a measure of committal to an educational institution or an educational-correctional institution of up to two (2) years, the court may impose a suspended sentence in accordance with the Kosovo Criminal Code.
6. Apart from the imposition of a measure or punishment, a minor may also be subject to a measure or punishment under Chapter VIII of the present Code.

Article 8
Selection of Applicable Measures and Punishments

1. When selecting any measure or punishment to be imposed on the minor offender, the court shall give primary consideration to the best interest of the minor. The court shall also consider the following factors: the type and gravity of the criminal offence, the age of the minor, the degree of psychological development, his or her character and aptitudes, the motives that induced him or her to commit the criminal offence, his or her education at that stage, the environment and the circumstances of his or her life, whether any measure or punishment has been previously imposed and other circumstances that may affect the imposition of a measure or punishment.
2. The Probation Service shall prepare a complete social inquiry on the minor upon the request of the public prosecutor, the juvenile judge or the court as provided for in the present Code. The social inquiry shall include information about the minor's age and psychological development, family background, the background and circumstances in which the minor is living, school career, educational experiences, the conditions under which the criminal offence has been committed and any other relevant information.
3. Prior to the selection of any measure or punishment, the court may request from the Probation Service the social inquiry and a recommendation regarding the selection of a measure or punishment.

Article 9
Imposition of measures on a young adult for criminal offences committed as a minor under the age of sixteen (16) years

1. Court proceedings cannot be conducted against an adult who has reached the age of twenty-one (21) years for a criminal offence committed as a minor under the age of sixteen (16) years.
2. Court proceedings can be conducted against a young adult for a criminal offence committed as a minor under the age of sixteen (16) years only if the criminal offence is punishable by imprisonment of more than five (5) years. In such court proceedings, the court may only impose an appropriate institutional educational measure. The general criteria set forth in Article 8 of the present Code shall be considered, as well as the amount of time that has elapsed since the commission of the criminal offence.

Article 10
Imposition of measures and punishments on an adult for criminal offences committed as a minor who has reached the age of sixteen (16) years

1. In court proceedings conducted against an adult for a criminal offence committed as a minor who has reached the age of sixteen (16) years, the court may impose a measure or punishment in accordance with Article 7. The general criteria set forth in Article 8 of the present Code shall be considered, as well as the amount of time that has elapsed since the Commission of the criminal offence.

2. As an exception to paragraph 1 of this article, instead of juvenile imprisonment, the court may impose a term of imprisonment or a suspended sentence on an adult who has reached the age of twenty-one (21) years at the time of the court proceedings.
3. As an exception to paragraph 1 of this article, instead of juvenile imprisonment, the court shall impose a term of imprisonment or a suspended sentence on an adult who has reached the age of twenty-three (23) years at the time of the court proceedings under the conditions foreseen by this Code.

Article 11

Imposition of measures or punishments on a young adult for criminal offences committed as a young adult

1. In court proceedings conducted against an adult who has not reached the age of twenty-one (21) years for a criminal offence committed as a young adult, the court may impose a measure or punishment in accordance with Article 7, if it determines that the objective that would be achieved by imposing a term of imprisonment would also be achieved by imposing the measure or punishment, considering the circumstances in which the criminal offence was committed, the expert opinion in relation to the psychological development of the young adult and his or her best interest.
2. The measure or punishment which is imposed may only last until the person has reached the age of twenty-three (23) years.

Article 12

Effect of punishment the educational measure

1. When the court imposes a sentence of juvenile imprisonment on a minor who has reached the age of sixteen (16) years during the execution of an educational measure, the educational measure shall cease when the minor begins to serve the sentence.
2. When the court imposes a sentence of juvenile imprisonment or imprisonment of at least one (1) year on an adult during the execution of an educational measure, the educational measure shall cease when the perpetrator begins to serve the sentence.
4. When the court imposes a sentence of juvenile imprisonment or imprisonment of less than one (1) year on an adult during the execution of an educational measure, the court shall decide in its judgment whether the educational measure shall continue or be revoked after the sentence of juvenile imprisonment or imprisonment has been served.

Article 13

Records of measures and punishments

1. The court shall keep a record of the measures and punishments imposed on a minor. The Probation Service must have a copy of this record.
2. Data on the measures and punishments imposed on a minor shall be confidential.

Only the court and the public prosecutor's office may obtain such data when it is necessary for conducting proceedings against the same individual while he or she is still a minor.

3. The records under paragraph 1 of this Article shall be expunged when the person has reached the age of twenty-one (21) years.
4. When a measure or punishment imposed on an adult for a criminal offence committed as a minor is being executed, the record of the measure or punishment shall be expunged immediately upon the termination of the measure or punishment.

CHAPTER III MEDIATION

Article 14

1. The mediation is non-court procedure that is run by third party, the mediator in accordance with provisions of this code and the law on mediation. The mediation can be utilized only when there is a free will and with the participation of both parties, the minor offender and damaged party.
2. Prosecutor, judge for minors or the panel for minors can propose a mediation if estimating that it is more appropriate taking into consideration the nature of the criminal act, the circumstances under which the criminal act was committed, the minor's background, the possibility of the reconciliation between the minor and the damaged party, the possibility of deducting damage of the damaged party, the possibility of his rehabilitation and reintegration in the society.
3. Mediation can be proposed to the parties in a procedure provided that they have expressed their will for mediation.

Article 15 Mediator

1. A mediator is a physical person who fulfills all the requirements determined in the Law on Mediation and is registered in the Mediators' Register.
2. The mediator helps the parties to come to an agreement
3. Dispositions for the dismissal of the judge determined in Kosovo Code of Criminal Procedure are exercised in compliance even for the dismissal of the mediator. No appeal is allowed against this verdict.
4. The dismissal of the mediator can be asked by the minor, his parent, his adoptive parent, tutor, defense attorney, and damaged party.
5. The authority which has chosen the mediator may decide on the request for dismissal.
6. No appeal on the rejection of the request for the dismissal of the mediator is allowed against this ruling.

CHAPTER IV DIVERSITY MEASURES

Article 16 Purpose of diversity measures

The purpose of diversity measures is to prevent, whenever possible, the commencement of proceedings against a minor offender, to promote the positive rehabilitation and re-integration of the minor into his or her community and thereby prevent recidivist behavior.

Article 17 Conditions for the imposition of diversity measures

1. A diversity measure may be imposed on a minor who has committed a criminal offence punishable by a fine or by imprisonment of three (3) years or less or for criminal offence carelessly committed punishable by imprisonment up to five (5) years, which bring death as a consequence.
2. The conditions for the imposition of a diversity measure are:
 - 2.1. Acceptance of responsibility by the minor for the criminal offence;
 - 2.2. Expressed readiness by the minor to make peace with the injured party; and
 - 2.3. Consent by the minor, or by the parent, adoptive parent or guardian on behalf of the minor, to perform the diversity measure imposed.
3. The failure of the minor to perform the obligations of a diversity measure shall be reported promptly to the competent prosecutor who may decide to recommence the prosecution of the case.

Article 18 Types of diversity measures

1. The diversity measures that may be imposed on a minor offender are:
 - 1.1. Mediation between the minor and the injured party, including an apology by the minor to the injured party;
 - 1.2. Mediation between the minor and his or her family;
 - 1.3. Compensation for damage to the injured party, through mutual agreement between the victim, the minor and his or her legal representative, in accordance with the minor's financial situation;
 - 1.4. Regular school attendance;
 - 1.5. Acceptance of employment or training for a profession appropriate to his or her abilities and skills;
 - 1.6. Performance of unpaid community service work, in accordance with the ability of the minor offender to perform such work; This measure may be imposed with the approval of the minor offender for a term ten (10) up sixty (60) hours.
 - 1.7. Education in traffic regulations; and
 - 1.8. Psychological counseling.

CHAPTER V EDUCATIONAL MEASURES

Article 19 Purpose of educational measures

The purpose of an educational measure is to contribute to the rehabilitation and proper development of a minor offender, by offering protection and assistance and supervision, by providing education and vocational training and by developing his or her personal responsibility, and thereby to prevent recidivist behavior.

Article 20 Types and length of educational measures

1. The types of educational measures that may be imposed on a minor offender are disciplinary measures, measures of intensive supervision and institutional measures.
2. Disciplinary measures are judicial admonition and committal of a minor to a disciplinary centre. These measures are imposed on a minor offender whose best interest is served by a short-term measure, particularly if the criminal offence was committed out of thoughtlessness or carelessness.
3. Measures of intensive supervision are intensive supervision by the parent, adoptive parent or guardian of a minor, intensive supervision in another family and intensive supervision by the Guardianship Authority. These measures are imposed on a minor whose best interest does not require isolation from his or her previous environment and is served by a long-term measure which provides the minor with an opportunity for education, rehabilitation or treatment. The term of this measure may not be less than three months or more than two (2) years.
4. Institutional educational measures are committal of a minor to an educational institution, committal of a minor to an educational-correctional institution and committal of a minor offender to a special care facility. These measures are imposed on a minor whose best interest is served by isolation from his or her previous environment and by a long-term measure which provides the minor with an opportunity for education, rehabilitation or treatment.
5. The duration of an educational measure may not exceed the maximum term of imprisonment prescribed for the criminal offence.

Article 21 Judicial admonition

1. The court shall impose the measure of judicial admonition when such measure is deemed sufficient and in the best interest of the minor in order to positively influence his or her behavior.
2. A minor subject to a judicial admonition shall be informed that he or she has committed a harmful and dangerous act which constitutes a criminal offence and that if he or she commits such act again, the court will impose a more severe measure or punishment.

Article 22
Committal to a disciplinary centre

1. The court shall impose the measure of committal to a disciplinary centre when such measure is deemed sufficient and in the best interest of the minor in order to positively influence his or her behavior.
2. The court may commit a minor to a disciplinary centre:
 - 2.1. For a maximum of one (1) month, for up to four (4) hours per day; or
 - 2.2. For a maximum of four (4) days of a school or public holiday, for up to eight (8) hours per day.
3. When imposing this measure, the court shall ensure that its execution shall not hinder the regular employment or school activities of the minor.
4. A minor shall be engaged in useful activities at the disciplinary centre. The activities shall be appropriate to his or her age, skills and interests with the aim of developing his or her sense of responsibility.

Article 23
Intensive supervision by a parent, adoptive parent or guardian

1. The court shall impose the measure of intensive supervision by the parent, adoptive parent, or guardian, after hearing the parent, adoptive parent or guardian, when the parent, adoptive parent, or guardian is capable of supervising the minor, but has been negligent in such supervision and when such measure is in the best interest of the minor.
2. When imposing this measure, the court may give the parent, adoptive parent, or guardian necessary instructions and order him or her to fulfill certain duties as part of the measure imposed in order to care for the minor and to effect a positive influence on him or her.
3. When imposing this measure, the court may order the Probation Service to verify the execution of the measure and to offer the necessary assistance to the parent, adoptive parent, or guardian.

Article 24
Intensive supervision in another family

1. The court shall impose the measure of intensive supervision in another family, after hearing the parent, adoptive parent or guardian, when the parent, adoptive parent, or guardian is incapable of carrying out intensive supervision of the minor and when such measure is in the best interest of the minor.
2. The execution of this measure shall be terminated when the parent, adoptive parent or guardian of the minor becomes able to exercise intensive supervision over him or her or when according to the results of the rehabilitation there is no longer any need for intensive supervision.
3. When imposing this measure, the court may order the Probation Service to verify the execution of the measure and to offer the necessary assistance to the family exercising supervision.

Article 25
Intensive supervision by the Guardianship Authority

1. The court shall impose the measure of intensive supervision by the Guardianship Authority, after hearing the parent, adoptive parent or guardian, when the parent, adoptive parent, or guardian is incapable of carrying out intensive supervision of the minor and when such measure is in the best interest of the minor.
2. In the execution of this measure, the minor shall remain with the parent, adoptive parent, or guardian.
3. When imposing this measure, the court will also define the duties of the Guardianship Authority, including:
 - 3.1. Overseeing the minor's education;
 - 3.2. Facilitating access to vocational training and employment;
 - 3.3. Ensuring that the minor is removed from any adverse influences;
 - 3.4. Facilitating access to necessary medical care;
 - 3.5. Providing possible solutions to any problems that might arise in the minor's life; and
 - 3.6. Such other duties as the court determines would be in the best interest of the minor.
4. Guardianship authority is obliged to report to court, which has imposed additional supervision measure from the guardianship authority in regards with execution of court verdict at least each three (3) month.

Article 25
Special obligations in conjunction with measures of intensive supervision

1. When imposing one of the measures under Articles 23, 24 and 25 of the present Code, the court may also impose one or more special obligations if the court determines that it is necessary for the successful execution of the measure, provided that the special obligations do not exceed the term of the measure.
2. The court may impose the following special obligations on the minor:
 - 2.1. To apologize personally to the injured party;
 - 2.2. To compensate for the damage to the injured party, in accordance with the minor's financial situation;
 - 2.3. To attend school regularly;
 - 2.4. To accept employment or to receive training for a profession appropriate to his or her abilities or skills;
 - 2.5. To refrain from any form of contact with certain individuals likely to have a negative influence on the minor;
 - 2.6. To accept psychological counseling;
 - 2.7. To refrain from frequenting certain places or locations likely to have a negative influence on the minor; and
 - 2.8. To abstain from the use of drugs and alcohol.
3. The court may, at any time, terminate or modify the special obligations imposed on the minor.
4. If the minor does not comply with the special obligations under paragraph 2 of this

Article, the court may substitute the measure of intensive supervision with another educational measure.

5. When ordering the special obligations under paragraph 2, the court shall inform the minor that non-compliance may result in the imposition of a more severe educational measure.

Article 27

Committal to an educational institution

1. The court shall impose the measure of committal to an educational institution when a minor requires full-time supervision by appropriate educators and when such measure is in the best interest of the minor.
2. The term of this measure may not be less than three (3) months or more than two (2) years.

Article 28

Committal to an educational-correctional institution

1. The court shall impose the measure of committal to an educational-correctional institution when a minor who has committed a criminal offence punishable by imprisonment of more than three (3) years requires specialized education and when such measure is in the best interest of the minor.
2. When deciding on the imposition of this measure, the court shall consider the gravity and nature of the criminal offence and whether the minor has previously been sentenced to an educational measure or juvenile imprisonment.
3. The term of this measure may not be less than one (1) year or more than five (5) years.

Article 29

Committal to a special care facility

The court may impose the measure of committal to a special care facility instead of the measure of committal to an educational institution or an educational-correctional institution upon the recommendation of a medical expert when a minor requires special care due to a mental disorder or physical handicap and it is in the best interest of the minor. The court that has imposed the measure shall review the need for further stay in the special care facility every six (6) months and when the minor reaches the age of eighteen (18) years.

CHAPTER VI

FINES AND ORDERS FOR COMMUNITY SERVICE WORK

Article 30

Fine

1. The court may impose the punishment of a fine on a minor if the minor has the means to pay the fine. When determining the punishment of a fine, the court shall

consider the material situation of the minor, and, in particular, the amount of his or her personal income, other income, assets and obligations. The court shall not set the level of a fine above the means of the minor.

2. The punishment of a fine may not be less than twenty-five (25) € or more than five thousand (5.000) €.
3. The judgment shall determine the deadline for the payment of a fine, which may not be less than fifteen (15) days or more than three (3) months, but in justifiable circumstances the court may allow the fine to be paid in installments over a period not exceeding two (2) years.
4. If the minor is unwilling or unable to pay the fine, the court may allow the fine to be paid in installments over a period not exceeding two (2) years. Thereafter, if the minor remains unwilling or unable to pay the fine, the court may, with the consent of the convicted person, replace the fine with an order for community service work which will not interfere with his or her regular employment or school activities.
5. If the minor does not pay the fine punishment or is unwilling to replace it with an order for community work, the court may replace the fine punishment with an uninstitutional educative measure.

Article 31

Order for community service work

1. The court may order community service work with the consent of the minor to replace an institutional educational measure of up to three (3) years, juvenile imprisonment of up to two (2) years or a fine.
2. When imposing an order for community service work, the court shall order the minor to perform unpaid community service work for a specified term of thirty (30) to one hundred and twenty (120) hours. The Probation Service will determine the type of community service work to be performed by the convicted person, designate the specific organization for which the convicted person will perform the community service work, decide on the days of the week when the community service work will be performed and supervise the performance of the community service work.
3. The community service work shall be performed within a period specified by the court which shall not exceed one (1) year.
4. If, upon the expiry of the specified period, the minor has not performed the community service work or has only partially performed such community service work, the court shall order that a proportionate duration of the original term of the institutional educational measure or juvenile imprisonment be executed, considering the duration of community service work that has been performed. In the case of a fine, the court shall order the payment of a fine proportionate to the duration of the community service work that has not been performed.

CHAPTER VII JUVENILE INPRISONMENT

Article 32 Purpose of juvenile imprisonment

The purpose of juvenile imprisonment is to contribute to the rehabilitation and development of the minor offender with an emphasis on the minor's education, specialized education, vocational skills, and proper personal development. In addition, juvenile imprisonment should positively influence the minor through protection, assistance and supervision to prevent recidivism.

Article 33 Imposition of juvenile imprisonment

The court may impose the punishment of juvenile imprisonment on a minor offender who has reached the age of sixteen (16) years and has committed a criminal offence punishable by imprisonment of more than five (5) years when the imposition of an educational measure would not be appropriate because of the seriousness of the criminal offence, the resulting consequences and the level of responsibility.

Article 34 Duration of juvenile imprisonment

1. The term of juvenile imprisonment cannot exceed the maximum term of imprisonment prescribed for the criminal offence but may be lower than the minimum term of imprisonment prescribed for the criminal offence.
2. The term of juvenile imprisonment may not be less than six (6) months nor more than five (5) years and shall be imposed in full years and months. The maximum term of juvenile imprisonment shall be ten (10) years for serious criminal offences punishable by long-term imprisonment, or if the minor has committed at least two (2) concurrent criminal offences each punishable by imprisonment of more than ten (10) years.
3. When deciding on the term of juvenile imprisonment, the court shall consider all the mitigating and aggravating circumstances set forth in Article 8 and 64 paragraphs 1 and 2 of the Criminal Code of Kosovo.

Article 35 Conditional release from juvenile imprisonment

1. A person sentenced to juvenile imprisonment may be conditionally released if he or she has served at least one-third of the sentence that has been imposed.
2. When granting conditional release, the court may impose a measure of intensive supervision by a parent, adoptive parent or guardian, in another family or by the Guardianship Authority to last until the end of the original sentence.

3. The court may revoke the conditional release if during the period of conditional release the minor commits a criminal offence for which a term of imprisonment or juvenile imprisonment of at least six (6) months is imposed.

Article 36

Statutory limitation on the execution of juvenile imprisonment

1. The punishment of juvenile imprisonment cannot be executed after the following periods have elapsed:
 - 1.1. Five (5) years from a final decision imposing juvenile imprisonment of more than five (5) years;
 - 1.2. Three years from a final decision imposing juvenile imprisonment of more than three (3) years; and
 - 1.3. Two (2) years from a final decision imposing juvenile imprisonment of up to three (3) years.

Article 37

Imposition of educational measures and juvenile imprisonment for concurrent criminal offences

1. For concurrent criminal offences, the court shall impose only one educational measure or only a punishment of juvenile imprisonment when the legal conditions are fulfilled for the imposition of such punishment and the court finds that it should be imposed.
2. Paragraph 1 of this Article shall also apply when the minor has committed another criminal offence before or after the imposition of the educational measure or juvenile imprisonment.

CHAPTER VIII

MEASURES OF MANDATORY TREATMENT AND ACCESSORY PUNISHMENTS

Article 38

Purpose and Imposition of Measures of Mandatory Treatment

1. The purpose of a measure of mandatory treatment is to contribute to the rehabilitation of the minor and to prevent the risk of recidivism. The mandatory treatment shall be imposed in accordance with the provisions of Criminal Code of Kosovo.
2. The court may impose a measure of mandatory psychiatric treatment on a minor in accordance with the Law on Proceedings Involving Perpetrators with a Mental Disorder.
3. The court may impose a measure of mandatory rehabilitation treatment on a minor in accordance with Chapter V of the Criminal Code of Kosovo.
4. A measure of mandatory treatment shall be imposed only after consultation with the Probation Service, the Guardianship Authority and appropriate experts.

5. A measure of mandatory treatment cannot be imposed simultaneously with a disciplinary measure.

Article 39
Imposition of Accessory Punishments

The court may impose an accessory punishment in accordance with Articles 54 – 62 of the Criminal Code of Kosovo, where appropriate.

THIRD PART

CHAPTER IX
PROCEDURE

Article 40

1. The authorities or institutions that participate in proceedings involving minors, as well as other persons and institutions from which notifications, reports or opinions are sought are obliged to proceed expeditiously and without any unnecessary delay.
2. A minor who has been detained on remand shall be brought as speedily as possible for adjudication.

Article 41

1. Proceedings shall not be initiated against a child under the age of fourteen (14) years. If the child is under the age of fourteen years at the time of the commission of the criminal offence, any proceedings that have been initiated shall be immediately terminated, and the Guardianship Authority shall be notified of the case.
2. Guardianship Authority undertakes certain necessary steps in accordance with the Law on Family and Social services based on their programs for treatment of juvenile criminal offenders under the age of fourteen (14) years. This matter might be regulated in detailed way with secondary legislation that could be issued by Ministry of labor and social welfare.

Article 42

1. A minor shall not be adjudicated in absentia.
2. When undertaking an action at which a minor is present, and especially at his or her examination, the authorities participating in the proceedings are obliged to act carefully, taking into account the psychological development, sensitivity and the personal characteristics of the minor, so that the conduct of the proceedings does not have an adverse effect on his or her development.

Article 43

1. The minor must have a defense counsel from the beginning till the end of procedure.
2. In a case when the minor, the legal representative or his or her family member does not engage a defense counsel, the juvenile judge or the competent authority conducting the proceedings shall appoint ex officio a defense counsel at public expense.
3. If the minor remains without a defense counsel in the course of the proceedings and if he or she fails to obtain another defense counsel, the juvenile judge or the competent authority conducting the proceedings shall appoint ex officio a new defense counsel at public expense.
4. If the conditions are not met for mandatory defense, a defense counsel shall be appointed at public expense at the request of the minor, the legal representative or his or her family member, if he or she is unable to pay for the cost of his or her defense. The appointment of defense counsel at public expense shall not be against the will of the minor.
5. The minor shall be instructed on the right to defense counsel at public expense under the previous paragraph before the first examination.
6. Only a defense counsel registered at the Bar Association of Kosovo can represent a minor.

Article 44

1. The parents, adoptive parents or guardian shall be entitled to accompany the minor in all proceedings and may be required to participate if it is in the best interest of the minor. The juvenile judge may exclude a parent, adoptive parent or guardian from participation in proceedings if such exclusion is in the best interest of the minor.
2. When the parents, adoptive parents or guardian of the minor do not exercise their parental duties, the court may nominate a temporary guardian for the minor.
3. The courts shall keep a record, prepared by the Centre for Social Work, of social workers, teachers, pedagogues, or volunteer specialists, from which the temporary guardian shall be nominated in cases under paragraph 2 of this Article.

Article 45

The minor shall undergo a general medical examination prior to the commencement of any period of detention on remand to ensure that his or her health is consistent with detention on remand.

Article 46

No one may be exempted from the duty to testify concerning the circumstances necessary for the evaluation of the psychological development of the minor and for a familiarity with his or her personality and the conditions in which he or she lives.

Article 47

1. When a minor has participated in the commission of a criminal offence with an adult, the proceedings against the minor shall be severed and conducted according to the provisions of the present Code.
2. Exceptionally, the proceedings against the minor can be joined to the proceedings against an adult and can be conducted in accordance with the general provisions of the Criminal Procedure Code of Kosovo, only if joined of the proceedings is essential for a comprehensive clarification of the case. A juvenile panel of the competent court shall issue a ruling on this on the reasoned motion of the public prosecutor or the defense counsel. The parties may appeal the ruling to the court of second instance within three days of the receipt of the ruling.
3. When joint proceedings are conducted against a minor and an adult perpetrator, the provisions of Article 40, Articles 42 - 46, Article 48, Article 49, Article 50 paragraphs 1 and 3, Articles 64 - 68 and Article 71 of the present Code shall always be applied in regard to the minor when questions relating to the minor are being clarified in a hearing and Articles 79 and 80 of the present Code shall always be applied in regard to the minor, while other provisions of the present Code shall be applied if their application is not in conflict with the conduct of joint proceedings.

Article 48

1. In proceedings against minors, irrespective of the powers which have been explicitly provided for in the provisions of the present Code, the Guardianship Authority is entitled to be notified of the course of the proceedings and to submit motions and state facts and evidence which are important for rendering a correct decision.
2. The public prosecutor shall notify the competent Guardianship Authority whenever proceedings against a minor are initiated.

Article 49

1. The minor shall be summoned in person and through his parent, adoptive parent or guardian.
2. The service of decisions and other written documents on the minor shall be carried out in accordance with the provisions of the Criminal Procedure Code of Kosovo. However, documents shall not be served on the minor by being displayed on the bulletin board of the court, and the provisions of the Criminal Procedure Code shall not be applied.

Article 50

1. All proceedings involving minors shall be confidential. No recording of the proceedings, including audio- or video-recording, may be made public without the written authorization of the court.

Criminal laws

2. Only the part of the decision rendered in the proceedings authorized for publication shall be made public.
3. When an authorized part of recorded proceedings or of the decision is made public, personal data that can be used to identify the minor shall not be revealed under any circumstances.
4. The provisions of this article shall apply to proceeding involving adults tried for criminal offences committed as minors.

CHAPTER X COMPOSITION OF JUVENILE PANEL

Article 51

1. A juvenile panel in the court of first instance and the juvenile panel in the court of second instance, except for panels in the Supreme Court of Kosovo, shall be composed of a juvenile judge and two (2) lay judges. The juvenile judge shall be the presiding judge of the panel.
2. A juvenile panel in the Supreme Court of Kosovo shall be composed of three (3) judges, including at least one juvenile (1) judge. When a juvenile panel adjudicates at a main trial, it shall be composed of two (2) juvenile judges and three (3) lay judges.
3. The lay judges in a juvenile panel shall be selected from among professors, teachers, educators, social workers, psychologists and other persons who have experience in the upbringing of minors.
4. Lay judges participating in a juvenile panel shall be of different genders.

Article 52

1. The public prosecutor may suspend the prosecution of a criminal offence and impose a diversity measure if the conditions under Article 17 of this Code are fulfilled. Before deciding on a diversity measure, the prosecutor shall summon the minor, his or her parents, adoptive parents or guardian and defense counsel.
2. The juvenile judge may impose a diversity measure if the conditions under Article 17 of this Code are fulfilled. Before deciding on a diversity measure, the juvenile judge shall summon the minor, his or her parents, adoptive parents or guardian and defense counsel. If the juvenile judge decides to impose a diversity measure, any ongoing proceedings shall be stayed.

Article 53

1. The court of second instance shall have jurisdiction:
 - 1.1. To decide on an appeal against a decision of the juvenile panel rendered at first instance;
 - 1.2. To decide on an appeal against a decision of the public prosecutor;
 - 1.3. To decide on an appeal against a decision of the juvenile judge; and
 - 1.4. In other cases, as provided for by law.

Article 54

1. As a rule, the court within whose territory a minor has a permanent residence shall have territorial jurisdiction for proceedings against the minor.
2. If a minor does not have a permanent residence or if it is unknown, the court within whose territory the minor has current residence shall have territorial jurisdiction.
3. Proceedings may be conducted before the court within whose territory a minor has current residence, even though he or she has a permanent residence, or before the court within whose territory the criminal offence has been committed, if it is clear that the proceedings will be conducted more easily before that court.

CHAPTER XI PREPARATORY PROCEEDINGS

Article 55

1. The public prosecutor shall initiate preparatory procedure against a specified minor on the basis of a police criminal report, a criminal report from other persons or other sources, if there is a reasonable suspicion that the minor has committed a criminal offence.
2. Preparatory procedure for criminal offences prosecuted on the basis of a motion for prosecution or a private charge shall only be initiated by the public prosecutor if the injured party has submitted a motion to initiate proceedings to the public prosecutor within the prescribed period of time provided for in provision of the Criminal Procedure Code of Kosovo.

Article 56

1. For criminal offences punishable by imprisonment of less than three (3) years or a fine, the public prosecutor may decide not to initiate preparatory proceedings, even though there is a reasonable suspicion that the minor committed the criminal offence, if the prosecutor considers that it would not be appropriate to conduct the proceedings against the minor in view of the nature of the criminal offence, the circumstances under which it was committed, the absence of serious damage or consequences for the victim, as well as the minor's past history and personal characteristics.
2. When a punishment or measure is being executed against a minor, the public prosecutor may decide not to initiate preparatory proceedings for another criminal offence of the minor, if, having regard to the seriousness of that criminal offence as well as to the punishment or measure which is being executed, the conduct of proceedings and the imposition of a punishment or measure for that criminal offence would not serve any purpose.
3. If the public prosecutor decides not to initiate preparatory proceedings, he or she shall notify the Guardianship Authority.
4. In order to ascertain the circumstances under paragraph 1 of this article, the public

prosecutor may request that the Probation Service conduct the social inquiry provided for in Article 8 of the present Code. If it is necessary, the prosecutor may summon the parent, adoptive parent or guardian and the minor, as well as other persons and institutions and the injured party.

5. If, for any reason, it is not possible to have the social inquiry under paragraph 4 of this Article completed before taking a decision on the appropriateness of the initiation of preparatory proceedings, the public prosecutor shall secure the necessary information under Article 8 of the present Code and may consult with the Probation Service about his or her decision.

Article 57

1. Preparatory proceedings shall be initiated by a ruling of the public prosecutor. The ruling shall specify the minor against whom the preparatory proceedings will be conducted, the time of the initiation of the preparatory proceedings, a description of the act which specifies the elements of the criminal offence, the legal name of the criminal offence, the circumstances and facts warranting the reasonable suspicion of a criminal offence, evidence and information already collected and a report on any measure or punishment previously imposed on the minor. A stamped copy of the ruling on the preparatory proceedings shall be sent without delay to the juvenile judge.
2. Provisions of the Criminal Procedure Code of Kosovo shall apply *mutatis mutandis* to the conduct of preparatory proceedings.

Article 58

1. The juvenile judge shall appoint an appropriate mental health expert when it is necessary to establish the state of the minor's mental health either at the time of the commission of the criminal offence or the competency of the minor to stand trial or both. The juvenile judge may make such appointment *ex officio* or on the request of the public prosecutor, defence counsel, parents, adoptive parents or guardian. The examination shall be carried out in an appropriate and confidential environment. The opinion of the mental health expert shall be confidential and shall only be disclosed to the court and the parties.
2. The juvenile judge may request the Probation Service to conduct a social inquiry.

Article 59

1. During the course of preparatory proceedings, the juvenile judge shall guarantee the rights of the minor.
2. The defense counsel and the parent, adoptive parent or guardian of the minor may attend actions undertaken in the preparatory proceedings. When such persons are present at such actions, they may submit motions and put questions to the person who is being examined.
3. The examination of the minor, when necessary, shall be undertaken with the assistance of a pedagogue, psychologist, defectologist, etc.

Article 60

1. The public prosecutor shall terminate the preparatory proceedings if at any time it is evident from the evidence collected that:
 - 1.1. There is no reasonable suspicion that the minor has committed the indicated
 - 1.2. criminal offence;
 - 1.3. The period of statutory limitation for criminal prosecution has expired;
 - 1.4. The criminal offence is covered by an amnesty or pardon;
 - 1.5. The conditions set forth in Article 56, paragraph 1 of the present Code; or
 - 1.6. There are other circumstances that preclude prosecution.
2. The public prosecutor shall immediately notify the juvenile judge of the termination of the preparatory proceedings. The public prosecutor shall also immediately notify the minor of the termination of the preparatory proceedings unless no action has been undertaken in the preparatory proceedings.

Article 61

If the preparatory proceedings are not completed within a period of six (6) months, the public prosecutor shall submit to the juvenile judge a written application supported by reasoning for an extension of the preparatory proceedings. The preparatory proceedings may be extended in accordance with the provisions of the Criminal Procedure Code of Kosovo.

Article 62

Before completing the preparatory proceedings, the prosecutor shall notify the defense counsel of his or her intention to complete the proceedings within fifteen (15) days. During this period, the defense counsel may submit a request to consider new facts or evidence Article 59, paragraph 2 of this Code. If the prosecutor grants the request, the preparatory proceedings shall not be completed and a new notification of the completion of the proceedings shall be necessary. If no request is submitted, the proceedings shall be completed within the time period communicated to the parties. The prosecutor may not accept a request to consider new facts or evidence after the completion of the preparatory proceedings.

Article 63

1. After completing the preparatory proceedings, the public prosecutor may file a reasoned motion with the juvenile panel for the imposition of an educational measure or a punishment.
2. The public prosecutor's motion must contain the following: the personal data of the minor, a description of the criminal offence, the legal name of the criminal offence with an indication of the provisions of the Criminal Code of Kosovo, the evidence indicating that the minor committed the criminal offence, the results of any social inquiry conducted by Probation Service and a motion for the imposition of an educational measure or punishment against the minor.

CHAPTER XII
PROVISIONAL ARREST, POLICE DETENTION AND DETENTION
ON REMAND

Article 64

The provisional arrest, police detention or detention on remand of a minor shall be ordered only as a measure of last resort for the shortest time possible.

Article 65

1. The police may arrest and detain a minor in accordance with Chapter XXIV of the Criminal Procedural Code of Kosovo.
2. The provisional arrest or police detention of a minor cannot exceed a period of twenty-four (24) hours. On the expiry of that period, the police shall release the minor unless a juvenile judge has ordered detention on remand.

Article 66

1. As an exception, a juvenile judge may order detention on remand against a minor if the grounds defined in provisions of the Provisional Criminal Procedure Code are present and if alternatives to detention on remand would be insufficient to ensure the presence of the minor, to prevent re-offending and to ensure the successful conduct of the proceedings. The juvenile judge shall consider whether the measures listed in Article 6 of the present Code or Article 268 (1) of the Criminal Procedure Code of Kosovo may be ordered as alternatives to detention on remand. The ruling on detention on remand of a minor shall provide a reasoned explanation for the insufficiency of alternatives to detention on remand.
2. A minor may be held in detention on remand on the initial ruling for a maximum of thirty (30) days from the day he or she was arrested. The detention on remand of a minor may only be extended by a juvenile panel of the competent court for an additional period of up to sixty (60) days.
3. The juvenile panel of the competent court shall review the ruling on detention on remand within thirty (30) days from the issuance of the ruling. Such review shall be conducted in the presence of the minor, his or her defense counsel and the public prosecutor.

Article 67

1. Minors held in detention on remand in a detention facility shall be separated from adult detainees.
2. A minor held in detention on remand may be held in an educational-correctional institution, if the juvenile judge considers this to be in the best interest of the minor.
3. While in detention on remand, the minor shall receive social, educational, vocational, psychological, medical and physical assistance, as required in view of his or her age, gender and personality.

Article 68

1. Provisions of the Criminal Procedure Code of Kosovo shall apply *mutatis mutandis* to the detention on remand of minors.
2. Notwithstanding paragraph 1 of this Article, minors shall not be held in detention on remand more than twelve (12) months from the arrest.
3. The juvenile judge shall have the same authority with respect to minors in detention on remand which the pre-trial judge has under the Criminal Procedure Code of Kosovo with respect to adults in detention on remand.

**CHAPTER XIII
MAIN TRIAL**

Article 69

1. When the juvenile panel receives a motion of the public prosecutor, the juvenile judge may issue a ruling to dismiss the motion or to transfer the matter to another court, if the conditions set forth in provisions of the Criminal Procedure Code of Kosovo exist.
2. If the juvenile judge does not issue a ruling to dismiss the motion or to transfer the matter to another court, he or she shall schedule the main trial within eight (8) days of the receipt of the motion.
3. At any time, the juvenile panel may terminate the proceedings at the main trial by a ruling and impose a diversity measure if the conditions under Article 17 are fulfilled. Before deciding on a diversity measure, the juvenile panel shall summon the minor, his or her parents, adoptive parents or guardian and defense counsel.

Article 70

1. The minor, the defense counsel and the public prosecutor shall be present at the main trial.
2. In addition to the persons referred to in provisions the Criminal Procedure Code of Kosovo, the parent, adoptive parent or guardian, a representative of the Guardianship Authority and a representative of the Probation Service shall be summoned to the main trial. The failure of such persons to appear shall not prevent the court from holding the main trial.
3. The provisions of the Criminal Procedure Code of Kosovo regarding the amendment and extension of the charge shall also apply in proceedings against a minor. However, the juvenile panel is authorized to render a decision even if the public prosecutor has not modified his or her motion or prepared a new motion, on the basis of the evidence presented in the main trial indicating that the factual situation as described in the motion has changed.

Article 71

1. The public shall always be excluded when a minor is being tried.

2. The juvenile panel may allow the main trial to be attended by experts and persons who are professionally involved in the welfare and education of minors or in combating the criminal behavior of minors.
3. During the main trial, the juvenile panel may order that all or certain persons be removed from the session with the exception of the minor, the public prosecutor, the defense counsel, the representative of the Guardianship Authority and the representative of the Probation Service. The juvenile panel may order that the parent, adoptive parent or guardian be removed from the session only in exceptional circumstances if there are reasons to believe that such exclusion is in the best interest of the minor.
4. The provisions of this article shall apply to proceedings involving adults tried for offences committed as minors.

Article 72

The main trial shall be adjourned or recessed only in exceptional cases. The juvenile judge shall notify the president of the court of every adjournment or recess of the main trial and shall state the reasons thereof.

Article 73

1. The juvenile panel is not bound by the motion of the public prosecutor in rendering its decision on the type of measure or punishment to be imposed.
2. The juvenile panel shall terminate the proceedings at the main trial by a ruling, when the grounds set forth in provisions of the Criminal Procedure Code of Kosovo exist.
3. The juvenile panel shall impose an educational measure on the minor by a ruling. The enacting clause of the ruling shall state only the order for an educational measure and any other measure or punishment in Chapter VIII of the present Code and the minor shall not be pronounced guilty of the criminal offence described in the motion of the public prosecutor. The explanation of the ruling shall contain a description of the criminal offence and the circumstances which justify the imposition of the educational measure.
4. The juvenile panel shall impose a punishment on a minor by a judgment. The judgment shall be rendered as provided under provisions of the Criminal Procedure Code of Kosovo. The judgment shall also include an order for any measure or punishment in Chapter VIII of the present Code.

Article 74

The juvenile judge shall draw up the ruling or judgment in writing within eight (8) days of its announcement, exceptionally in complicated cases with the president of court the duration of time can be extended but not more than fifteen (15) days.

Article 75

1. The court may order the minor to pay the costs of proceedings and to satisfy property claims only if it has imposed a punishment on the minor. If educational measures have been imposed upon the minor, the costs of the proceedings shall be paid from Kosovo budget and the injured party shall be referred to civil litigation to realize property claims.
2. If the minor has his or her own financial income or property, the court may order the
3. minor to pay the costs of proceedings and to satisfy property claims even where educational measures have been imposed.

Article 76

Part Four of the Criminal Procedure Code of Kosovo shall apply mutatis mutandis to the main trial of minors and the rulings and judgments issued in respect of minors.

**CHAPTER XIV
LEGAL REMEDIES**

Article 77

1. The persons referred to in provisions of the Criminal Procedure Code of Kosovo may appeal a ruling imposing diversity measures, a ruling terminating the proceedings at the main trial, a ruling imposing an educational measure, a judgment imposing a punishment and a judgment or ruling imposing a measure under Chapter VIII of the present Code. This appeal may be filed within eight days from the day of the receipt of the ruling or judgment.
2. The defense counsel, the public prosecutor, the spouse, the parent, adoptive parent or guardian, a relation by blood in a direct line to any degree, the brother or the sister may file an appeal on behalf of the minor, even against his or her will.
3. A minor cannot waive his or her right of appeal.
4. An appeal against a ruling imposing an educational measure served in an institution suspends the execution of the measure. The court may decide to execute the measure notwithstanding an appeal if it determines that this is in the best interest of the minor, after hearing the minor and his or her parents, adoptive parents or guardian.

Article 78

1. The court of second instance may modify the appealed decision by imposing a more severe measure only if so requested in the appeal by the public prosecutor.
2. If the ruling or judgment in the first instance did not impose juvenile imprisonment, the court of second instance may impose juvenile imprisonment only if a hearing is held. If the ruling or judgment in the first instance did not impose an institutional educational measure, the court of second instance may impose an institutional educational measure only if a hearing is held.

Article 79

A request for the protection of legality may be filed both in cases under provisions of the Criminal Procedure Code of Kosovo and when a punishment or an educational measure has been imposed upon a minor in breach of the provisions of the law.

Article 80

The provisions on the reopening of criminal proceedings terminated by a final ruling or a final judgment as provided in provisions of the Provisional Criminal Procedure Code shall apply mutatis mutandis to the reopening of proceedings terminated by a final ruling terminating the proceedings at the main trial, a final ruling imposing an education measure and a final judgment imposing a punishment.

FOURTH PART MEDIATION AND EXECUTION OF MEASURES AND PUNISHMENT

CHAPTER XV MEDIATION PROCEDURE

Article 81

1. Before the parties enter the mediation procedure, the minor prosecutor or panel shall acknowledge the parties with the principals and rules of the mediation, as well with the procedure and the legal effects of any agreement being reached through mediation, in accordance with the law on Mediation.
2. When the minor offender and the damaged party express their will for mediation, this assent shall be put in a record.
3. In accordance with the Law on Mediation, the minor prosecutor or panel, by ruling, appoints an independent mediator from the list of mediators.
4. The mediator, after receiving of the ruling which appoints the mediator, shall contact the minor offender and the damaged party and after that to start with the mediation procedure.
5. Mediation procedure shall not be longer than ninety (90) days starting from the day of the announcement of the ruling. Minor Prosecutor or Panel is officially notified with the result of the mediation.
6. If the mediation procedure does not succeed, in that case the court trial shall continue from the abolishing point.
7. Mediation procedure for minors is free of charge for the parties. The mediation costs, including the payment for the mediator, are being paid from the budget of the Kosovo Court Council in cases when the mediator is appointed by the minor panel or the minor college, whilst in the cases when the mediator is appointed by the Prosecutor, the costs of the procedure are being paid from the budget of the Kosovo Prosecutorial Council.
8. The payment of the costs for the procedure of the mediation and the mediator is done based on the law on mediation as well as sub-legal acts drafted for its implementation.

Article 82
Finalization of the Mediation Procedure

1. Mediation procedure is over when:
 - 1.1. the mediation has been successfully finished;
 - 1.2. the deadline of ninety (90) days has expired;
 - 1.3. the mediator considers that the continuation of the procedure is not possible or not reasonable;
 - 1.4. the minor or the damaged party declare that they want to terminate the procedure;
2. When the mediation has no success, the minor prosecutor, panel, or college which has proposed the mediation, restarts the abolished procedure from the moment of its abolishment;
3. When the mediation is successful, the court proceeding or the proceeding of the prosecutor against the minor offender of the criminal act is terminated. After the termination of court proceeding, juvenile judge or prosecutor shall inform the parties regarding their decision.
4. If the parties come to an agreement over the compensation of the damage, then it is submitted to the minor prosecutor or panel, and if they approve it, the agreement becomes an executive power and it is executed in accordance with the law on power.

CHAPTER XVI
EXECUTION OF DIVERSITY MEASURES

Article 83

1. When the prosecutor, the juvenile judge or the court imposes a diversity measure, the ruling and all other relevant information shall be sent to the competent Probation Service to execute this measure.
2. The authority which imposed the diversity measure shall supervise the execution of the diversity measure.
3. If the minor fails to perform an obligation ordered as a diversity measure, the Probation Service shall verify the facts and the reasons for the failure to perform the obligation and shall inform the authority which imposed the diversity measure and the competent public prosecutor.

CHAPTER XVII
EXECUTION OF EDUCATIONAL MEASURES

Article 84

General principles on the execution of educational measures

1. The court which imposed the educational measure is the competent court which shall have jurisdiction to supervise the execution of the educational measure and issue orders in relation to the execution of the educational measure.

2. The Probation Service which is located in the territory where the minor has permanent or current residence shall have jurisdiction to exercise responsibilities in relation to the execution of the educational measure.

Article 85

1. An educational measure shall be executed with respect for the personality and dignity of the minors, encouraging their physical, moral and intellectual development and protecting their physical and mental health.
2. An educational measure shall be executed based on an individual program adapted to the personality of the minor as far as possible and designed in accordance with modern achievements of knowledge and practice.
3. The individual program is designed on the basis of a comprehensive analysis of the special characteristics of the minor, the causes and the type of the criminal offence and other forms of behavioral difficulties as well as the educational level, the development of the minor and the circumstances of his or her family life.
4. The individual program shall contain motivating means that are adapted to the personal characteristics of the minor, enrollment in education and vocational training, free time activities, activity with the parents, adoptive parents, the guardian or other family members of the minor and other means of exercising influence on the minor.

Article 86

1. The expenses of executing educational measures shall be paid from budgetary resources.
2. The parents or persons who are obliged by law to care for the minor shall be obliged to contribute to paying the expenses of executing educational measures.
3. The level of contribution of the parents or the persons who are obliged by law to care for the minor shall be determined by the court when it renders a ruling imposing the educational measure. If determining the level of contribution requires a more detailed study of the financial situation of the parents or persons who are obliged to care for the minor, the court shall first render a decision imposing the educational measure and then continue the procedure for determining the level of contribution.
4. The competent court may change the decision on the level of the contribution if circumstances subsequently change.

Article 87

1. An educational measure shall be executed after the final decision of the court and when there are no legal obstacles to its execution, unless provided otherwise by the present Code.
2. The court shall deliver the final decision to the authorized institution or individual for execution within three days from the day when the decision became final, together with a birth certificate, school certificate or transfer paper, report of

medical examination, data from the criminal file on prior criminal offences, proceedings conducted and reports issued by the Probation Service.

3. The authorized institution or individual receiving the sentence for execution shall begin execution of sentence within three (3) days from receipt of the sentence.
4. The competent court shall maintain records on every minor on whom it has imposed an educational measure.

Article 88

During the execution of an educational measure, the competent court may impose appropriate measures to protect the rights and well-being of a minor, including placing the minor in a shelter or an educational or similar establishment, placing the minor under the supervision of the Guardianship Authority or transferring the minor to another family. The court shall inform the Guardianship Authority of any measure imposed.

Article 89

Execution of a measure of committal to a disciplinary centre

The measure of committal to a disciplinary centre for minors shall be executed in a special educational institution.

Article 90

1. A parent, adoptive parent or guardian shall ensure regular visits by a minor to the disciplinary centre.
2. The disciplinary centre shall immediately inform the competent court when a minor fails to report in a timely manner to the disciplinary centre or that he stops visiting it regularly.
3. The disciplinary centre shall maintain a record on the execution of the education measure which shall be delivered for inspection to the competent court and the competent Probation Service.

Article 91

Execution of a measure of intensive supervision by a parent, adoptive parent or Guardian

The execution of the educational measure of intensive supervision by a parent, adoptive parent or guardian begins when the parent, adoptive parent or guardian receives the final ruling on the imposition of the educational measure.

Article 92

1. The parent, adoptive parent or guardian shall obey the orders and instructions of the court which has imposed the educational measure and shall allow the Probation Service to verify the execution of the educational measure, when such verification is ordered by the court.

Criminal laws

2. A dispute between parents, adoptive parents or guardian of a minor and the Probation Service shall be resolved before the competent court.

Article 93

1. The parent, adoptive parent or guardian of a minor and the Probation Service shall inform the competent court on the progress of the execution of the educational measure according to the terms ordered by the court.
2. The Probation Service shall inform the competent court without delay of the failure of the minor to comply with a special obligation imposed pursuant to Article 26 of the present Code and of any obstacle to the execution of the educational measure.

Article 94

Execution of a measure of intensive supervision in another family

1. The competent court shall designate the family in which a minor subject to the measure of intensive supervision in another family is to be placed, upon the motion of the competent Probation Service.
2. Before submitting the motion, the Probation Service shall examine the personality of the minor and the social and psychological structure of the family in which he or she is to be placed.
3. Under the same conditions, priority shall be granted to a family to which the minor is related or is emotionally attached.

Article 95

1. The Probation Service and the family in which the minor shall be placed shall conclude a written agreement that regulates their mutual rights and obligations.
2. The family in which the minor is to be placed shall permit the Probation Service to verify the execution of the educational measure, when such verification is ordered by the court.

Article 96

During the execution of the educational measure of intensive supervision in another family, the minor shall maintain permanent connections with his or her family, unless the competent court orders otherwise on the motion of the Probation Service.

Article 97

The competent court may, ex officio, or upon the motion of the Probation Service, order a change of the placement of the minor, if the circumstances in the family in which the minor is placed have changed to such extent that the execution of the educational measure is made difficult.

Article 98

The provisions of the present Code on the execution of the educational measure of intensive supervision by a parent, adoptive parent or guardian shall apply mutatis mutandis to the execution of the educational measure of intensive supervision in another family.

Article 99

Execution of a measure of intensive supervision by the Guardianship Authority

1. The competent Guardianship Authority is authorized to execute the educational measure of intensive supervision by a Guardianship Authority.
2. The Guardianship Authority shall, immediately after receiving the ruling imposing the educational measure, designate the official of the Guardianship Authority responsible for execution of the measure and notify the competent court immediately of this.

Article 100

1. The courts, public prosecutors' offices, schools and other institutions shall assist and cooperate with the Guardianship Authority in the execution of this educational measure.
2. The parent, adoptive parent or a foster parent of the minor shall inform the Guardianship Authority of any obstacle to the execution of the educational measure.
3. The Guardianship Authority shall inform the competent court without the delay of the failure of the minor to comply with a special obligation imposed pursuant to Article 26 of the present Code and of any obstacle to the execution of the educational measure.
4. The provisions of the present Code on the execution of the educational measure of intensive supervision by a parent, adoptive parent or guardian shall apply mutatis mutandis to the execution of the educational measure of intensive supervision by the Guardianship Authority.

Article 101

The provisions of the present Code on the execution of the educational measure of intensive supervision by a parent, adoptive parent or guardian shall apply mutatis mutandis to the execution of the educational measure of intensive supervision by the Guardianship Authority.

Article 102

General provisions on institutional educational measures

A minor who is subject to an institutional educational measure shall have the same rights as an adult who is sentenced to imprisonment in addition to the rights provided for by the present Code.

Article 103

1. On the request of the minor or his or her parent, adoptive parent or guardian, or on the motion of the Probation Service, the execution of an institutional educational measure may be stayed for just cause.
2. The competent court shall decide on the stay of the execution.
3. An appeal against a ruling at first instance on the stay of the execution may be filed with the court of second instance within three (3) days from receipt of the ruling.

Article 104

1. A request or motion for a stay of execution stays the execution of an institutional educational measure until the final ruling on the request or motion.
2. If the court on rejecting a request which has been submitted a second time determines that the right of request is being abused, the court shall decide that the appeal does not stay the execution of the institutional educational measure.

Article 105

The provisions in the Law on Execution of Penal Sanctions on the stay of execution of a sentence of imprisonment shall apply *mutatis mutandis* to the stay of execution of an institutional educational measure.

Article 106

1. On the request of a minor or his or her parent, adoptive parent or guardian or on the motion of the director of the institution where the institutional education measure is being executed, the institutional educational measure may be suspended for justifiable reasons for up to three months. Exceptionally, for the purpose of treatment the suspension may last until the completion of the treatment.
2. The competent court shall decide on the suspension.
3. An appeal against the ruling at first instance may be filed with the court of second instance within three days from receipt of the ruling.

Article 107

1. A court shall suspend execution of the institutional educational measure also when the minor has been committed for the execution of the measure, before the ruling on the request or motion for a stay of execution of the measure enters into force and later it is established that the request or motion was grounded.
2. In the case foreseen in paragraph 1 of this Article, the duration of the execution of the institutional educational measure is not to be counted in the length of the suspension of the execution of the institutional educational measure.

Article 108

An institutional educational measure shall not be considered to be executed during the period of the suspension of the institutional educational measure.

Article 109

The provisions of the Law on Execution of Penal Sanctions on the suspension of execution of a sentence of imprisonment shall apply *mutatis mutandis* to the suspension of execution of an institutional educational measure.

Article 110

Execution of the measure of committal to an educational institution

1. The educational measure of committal to an educational institution shall be executed in an institution for the education of juveniles.
2. A minor who is subject to an educational measure has the same rights and duties as the other minors in the educational institution. Only the director of the educational institution and the educator in charge of the minor shall be informed that the educational measure was imposed on the minor.

Article 111

The competent Probation Service is authorized to order the minor to report to the educational institution.

Article 112

1. If execution of the educational measure cannot begin or continue because the minor refuses to comply with the educational measure or escapes, the Probation Service shall immediately inform the competent court and the authorized police station, which shall transport the minor to the educational institution.
2. The method of transporting the minor to the educational institution shall not violate his or her dignity.

Article 113

Execution of the measure of committal to an educational-correctional institution

1. The educational measure of committal to an educational-correctional institution shall be executed in an educational-correctional institution established for this purpose. An educational-correctional institution is a correctional facility of the semi-confined type.
2. Females who are subject to this education measure shall be accommodated in the female section of the educational-correctional institution.
3. Adults who are subject to this educational measure, as well as minors who reach the age of eighteen years in the educational-correctional institution, shall be accommodated in a special section of the educational-correctional institution.

Article 114

1. The competent court shall order in writing the minor to report to the educational-correctional institution on a specific day for the execution of the educational measure.
2. The period of time between the receipt of the order and the day of reporting shall be no less than eight days and no more than fifteen (15) days.
3. The competent court shall inform the educational-correctional institution of the date on which the minor shall report and shall serve the final decision along with personal information about the minor collected during the proceedings.

Article 115

1. If a minor who has been properly summoned does not report at the educational-correctional institution, the court shall order that he or she be transported to the educational-correctional institution. If the convicted person hides or is in flight, the court shall order the issuance of a wanted notice.
2. The method of transporting the minor to the educational institution shall not violate his or her dignity.

Article 116

1. When the minor is admitted to an educational-correctional institution, his or her identity and the grounds and authority for the educational measure shall first be established and then he or she shall undergo a medical examination within twenty-four (24) hours of arrival. The name of the minor, the grounds and authority for the educational measure and the date and time of his or her arrival at the correctional facility shall be recorded in a register.
2. The minor shall then be sent to the section for personal examination for no more than sixty (60) days for the purpose of establishing an individualized program. The program for dealing with minors shall be established by an expert team at the educational-correctional institution.

Article 117

1. Minors are assigned to educational groups in accordance with their age, mental development, and other personal characteristics and in accordance with features of their individualized programme.
2. An educational group has at most twenty (20) minors and a special educator.

Article 118

1. A minor has the right to exercise sufficiently in order to remain healthy and to spend at least three (3) hours daily outside closed premises during free time.
2. A minor shall have a secured environment for playing sports, exercising and other physical activities.

Article 119

If there are no lessons of a certain kind or educational level in the educational-correctional institution, a minor shall be permitted to attend lessons outside the educational-correctional institution if such attendance is not harmful to the execution of the educational measure and the decision is justified by the minor's previous educational progress.

Article 120

1. A minor shall have the right to receive a visit at least once each week for a minimum of one hour by his or her parent, adoptive parent, guardian, spouse, child, adopted child, and other relatives by blood in a direct line or in a collateral line to the fourth degree.
2. A minor shall have the right to receive a visit at least once per month by other persons who will not have a negative influence on execution of the measure.
3. The director of the educational-correctional institution has the authority to prohibit visits for justified reasons in accordance with a sub-legal act issued by the Ministry of Justice.

Article 121

1. A minor has the right to daily and weekly rest in accordance with the provisions of Law on Execution of Penal Sanctions.
2. A minor has the right to an annual vacation of thirty (30) days which may be taken outside the premises of the educational-correctional institution by the order of Correction institution.
3. The director of the educational-correctional institution may grant a minor additional leave from the educational-correctional institution on educational, occupational, family and other social grounds for a maximum of fifteen (15) days each year.

Article 122

1. The provisions on the disciplinary procedures and punishments applicable to persons sentenced to imprisonment set forth in the Law on Execution of Penal Sanctions shall apply mutatis mutandis to a minor subject to a measure of committal to an educational-correctional institution.
2. A minor may not be subject to solitary confinement as a disciplinary punishment.
3. A minor may be accommodated in a special unit of the educational-correctional institution as a disciplinary punishment under the following conditions:
 - 3.1. The period of accommodation in a special unit may not exceed fifteen (15) days;
 - 3.2. The minor shall not be accommodated alone in the special unit;
 - 3.3. The minor shall be entitled to exercise his or her right to spend at least three (3) hours daily outside closed premises during free time in accordance with

Article 118 of the present Code and to receive visits according Article 120 of the present Code.

- 3.4. The minor shall have access to textbooks and other books; and
- 3.5. The minor shall be visited by a medical officer and educator once a day and by the director of the educational-correctional institution twice a week.

Article 123

Execution of measure of committal to a special care facility

A minor sentenced to the educational measure of committal to a special care facility due to mental disorder or physical handicap shall be sent to an appropriate facility of social protection, where he or she has the same rights and duties as the other minors accommodated in the institution.

Article 124

By the request from Probation Service, the Police will escort the minor to the institution of special care facility.

Article 125

1. If execution of the educational measure cannot begin or continue because the minor refuses to comply with the educational measure or escapes, the Probation Service shall immediately inform the competent court and the competent police station, which shall transport the minor to the institution.
2. The method of transporting the minor to the educational institution shall not violate his or her dignity. A medical officer shall accompany the minor when he or she is being transported to the special care facility.

Article 126

1. The special care facility shall inform the competent Probation Service and the competent court on the progress of the execution of the educational measure.
2. The facility shall specially inform the competent court of the medical condition of the minor when he or she reaches the age of eighteen (18) years.

Article 127

Review, substitution and termination of educational measures

1. Every six months, the director of the institution or facility where an institutional educational measure is executed shall submit to the competent court and the competent Probation Service a report on the behavior of the minor and the success in the execution of the measure. The director shall, depending on the success in the execution of the measure, submit a motion for amending or terminating the execution of the educational measure.
2. Every six (6) months, the juvenile judge shall visit the minors accommodated in an

institution or facility and, through direct contact with the minors and the officers directly involved in executing institutional educational measures and reviewing the records of the institution or facility, establish whether the minors are treated correctly and in accordance with the law and whether the institutional educational measures have been successful.

3. The juvenile judge shall immediately inform the competent Probation Service and the institution or facility executing the institutional educational measure about any deficiencies or other observations. Upon receiving such information, the Probation Service shall immediately carry out the appropriate checks and undertake measures to correct the illegalities and irregularities and to inform the competent court about the actions undertaken.

Article 128

1. The competent court that has imposed an educational measure shall review the execution of an educational measure every six (6) months.
2. The minor, his or her parent, adoptive parent or guardian, the centre, institution or facility where the educational measure is executed or the Probation Service may request a review of the execution of an educational measure.
3. The juvenile panel of the competent court shall issue a decision on the request referred to in paragraph 2 of the present Article within eight (8) days of the receipt of the request. An appeal against the decision may be filed with the court of second instance within three (3) days from receipt of the decision.
4. During the review, the competent court shall consider the reports of the Probation Service and of the director of the institution or facility where an institutional educational measure is executed and shall hear the minor, his or her parent, adoptive parent or guardian, the defense counsel, public prosecutor, and the Probation Service.
5. On the basis of the review, the court may decide to continue or terminate the execution of the educational measure, or substitute it for a less severe educational measure.
6. As an exception to paragraph 5 of the present Article, the court may substitute an education measure with a more severe educational measure where the minor has failed to comply with a special obligation imposed pursuant to Article 26 of the present Code.

Article 129

1. If, after a ruling on imposing an educational measure has been rendered, additional circumstances, new evidence or evidence which existed but which was not known at the time the decision was rendered comes to light which would clearly have affected the selection of the measure, the court shall review the ruling and may terminate the execution of the measure or may substitute it with another educational measure. The court may not impose a more severe measure on the basis of newly-considered evidence.
2. If the execution of an educational measure has not commenced within one (1) year

from the date on which the decision imposing the measure becomes final, the court shall review the decision and decide whether to execute or to terminate the measure or to substitute it with another educational measure. The court may not impose a more severe measure.

3. If, through no fault of the minor, the execution of the measure of committal to a disciplinary centre has not commenced within six months from the date on which the decision imposing the measure becomes final, the measure shall not be executed.
4. A review of an educational measure pursuant to the present article shall be conducted in accordance with Article 128 of this Code.

Article 130 **Complaints and petitions**

The provisions in the Law on Execution of Penal Sanctions on the submission of complaints and petitions by convicted persons sentenced to imprisonment shall apply *mutatis mutandis* to the submission of complaints and petitions by minors subject to the educational measures of committal to a disciplinary centre, a committal to an educational institution, committal to an educational-correctional institution or committal to a special care facility.

CHAPTER XVIII **EXECUTION OF SENTENCES**

Article 131 **Execution of Fines**

1. The provisions in the applicable Law on Execution of Penal Sanctions on the execution of fines shall apply *mutatis mutandis* to the execution of fines imposed on minors.
2. A fine imposed on a minor which is unpaid may not be replaced by a term of imprisonment.

Article 132 **Execution of Orders for Community Service Work**

1. The provisions in the applicable Law on Execution of Penal Sanctions on the execution of a suspended sentence with an order for community service work shall apply *mutatis mutandis* to the execution of orders for community service work imposed on minors.
2. If it is in the interest of the minor, the Probation Service may seek assistance from or cooperation with the Guardianship Authority or the legal representative of the minor.
3. Special attention should be paid to ensuring that the completion of community service work does not prevent regular school attendance or other important activities.

Article 133

1. The Probation Service staff shall submit a written report to the court that has imposed the punishment on the performance of the community work and any obstacles in the execution of this measure.
2. If the minor cannot complete the community service work because of a subsequent change in circumstances for which he or she is not responsible, the Probation Service shall ask the court to review the order for community service work.
3. The court may, in view of the results achieved, amend the order or terminate the execution of the measure.
4. The expenses regarding the execution of diversity measures, educational measures and order for community service work shall be paid from Kosovo budget.

Article 134

Execution of juvenile imprisonment

1. The provisions of the present Code regulating sending, admission, stay and suspension of execution, allocation to educational groups, rights to visit and participation in physical exercise, determination of work and education, the possibility of regular schooling, disciplinary punishment of minors in educational institutions and procedures for complaints and petitions shall also be applied to the execution of the punishment of juvenile imprisonment.
2. The provisions in the Law on Execution of Penal Sanctions on the execution of a sentence of imprisonment shall apply *mutatis mutandis* to the execution of juvenile imprisonment where they are not in conflict with the present Code.
3. A minor who has been sentenced to juvenile imprisonment shall have the same rights as an adult who is sentenced to imprisonment in addition to the rights provided for by the present Code.

Article 135

1. During the time they serve their sentences, minors shall be provided with appropriate vocational training based on their knowledge, skills, interests and current work, and depending on the limits of the correctional facility. The bases of the treatment are involvement in work that is educationally beneficial and with an appropriate remuneration, facilitating and encouraging contacts between the minor and the outside world through letters, telephone, receiving visits, going on home visits, sports activities and providing necessary conditions for religious practice.
2. The professional staff of the service treating the minor shall have an adequate knowledge in the fields of pedagogy and psychology.

Article 136

1. Juvenile imprisonment shall be served in a correctional facility for minors, and, in exceptional cases, in separate departments of a correctional facility for adults. A correctional facility for minors shall be of the semi-confined type. Exceptionally

minors may serve a sentence of juvenile imprisonment in correctional facilities of the confined type.

2. Males and females shall serve their sentences of juvenile imprisonment in separate correctional facilities or in separate departments of those facilities.
3. Minors who become adults during the execution of the punishment of juvenile imprisonment shall be accommodated in a separate department of the facility. Minors shall serve their sentences of juvenile imprisonment in a correctional facility for minors until they have reached the age of twenty-three (23) years. If at that age they have not served the full sentence, they shall be transferred to a correctional facility for adults. In exceptional cases, convicted persons who have reached the age of twenty three (23) years may be allowed to remain in a correctional facility for minors if this is necessary for the completion of their education or vocational training, or if the remainder of the sentence to be served is not more than six (6) months. However, they can under no circumstances remain in a correctional facility for minors after reaching the age of twenty-seven (27) years.
4. Adults on whom juvenile imprisonment has been imposed shall be accommodated in a separate department of the facility.
5. Every year, the director of the facility where juvenile imprisonment is executed is obliged to submit a report to the court that has imposed juvenile imprisonment on the behavior of the minor and the execution of juvenile imprisonment.

Article 137

1. As a rule, minors shall serve their sentences together.
2. Upon the request of a minor, the director of the correctional facility may permit the minor to be separated from other convicted persons if the director determines that the concerns underlying the minor's request are reasonable and there are no other alternatives for addressing the minor's concerns.
3. The director of the correctional facility may order a minor to be separated from other convicted persons, without the request of the minor for such separation, only if such measure is necessary:
 - 3.1. To avert danger to the life or health of the minor or other persons; or
 - 3.2. To avert a threat to the security of the correctional facility posed by the continued presence of the minor in the general prison population.
4. The provisions in the Law on Execution of Penal Sanctions on separation from other convicted persons shall apply mutatis mutandis to the separation of a minor from other convicted persons.

Article 138

1. In accordance with a sub-legal act issued by the Ministry of Justice, the director of a facility may authorize a minor to take leave twice each year to visit to his or her parents, adoptive parents, guardian spouse, children, adopted child, brothers and sisters.
2. The leave shall last up to thirty (30) days and as a rule it shall be authorized when lessons are not being held.

Article 139

1. A minor has the right to spend at least three (3) hours daily in open environment within the institution.
2. A minor shall not be subject to solitary confinement as a disciplinary punishment.

Article 140

The juvenile panel in the district court of the territory where the punishment is being served shall decide on a petition for judicial protection against the measures and decisions of the director of the correctional facility in which the convicted person is serving the sentence of juvenile imprisonment.

CHAPTER XIX

ASSISTANCE AFTER EXECUTION OF INSTITUTIONAL EDUCATIONAL MEASURES OR JUVENILE IMPRISONMENT

Article 141

1. During the entire time that an institutional educational measure or juvenile imprisonment is being executed, the Probation Service shall maintain regular contact with the minor, his or her family and the institution or facility in which the minor is accommodated.
2. No later than three (3) months before the release of the minor, the institution or the correctional facility where the institutional educational measure or juvenile imprisonment is being executed shall inform his or her parents, adoptive parents or guardian and the Probation Service about this and shall propose to them measures for the reception of the minor.

Article 142

1. The parent, adoptive parent or guardian of the minor shall inform the competent Probation Service of the release of the minor.
2. The Probation Service shall offer assistance to the minor after release for as long as he or she needs it, but not longer than twelve (12) months. If it is in the interest of the minor, the Probation Service may seek assistance from or cooperation with the Guardianship Authority or the legal representative of the minor.

Article 143

1. After the release of a minor, the Guardianship Authority shall take special care of a minor who has no parents and of a minor whose family circumstances are not settled.
2. The care shall include, in particular, accommodation, food, the acquisition of clothes, medical treatment, the regulation of family circumstances, the completion of vocational training and employment of the minor.

CHAPTER XX
EXECUTION OF MEASURES OF MANDATORY REHABILITATION
TREATMENT OF MANDATORY PSYCHIATRIC TREATMENT

Article 144

1. The provisions of the Law on Execution of Penal Sanctions on the execution of a measure of mandatory rehabilitation treatment and the provisions of the applicable law on the execution of a measure of mandatory psychiatric treatment imposed on adults shall apply mutatis mutandis to the execution of these measures imposed on minors.
2. A minor shall serve a measure of mandatory treatment in a separate department of the health care institution where these measures are executed.

PART FIVE
PROCEEDING INVOLVING CRIMINAL OFFENSES COMMITTED
AGAINST CHILDREN

CHAPTER XXI
TRIAL OF ADULTS FOR CRIMINAL OFFENSES COMMITTED
AGAINST CHILDREN

Article 145

1. The juvenile panel and juvenile judge shall try adults for the following criminal offences committed against a child, as provided in the Criminal Code of Kosovo:
 - 1.1. Rape;
 - 1.2. Commission of Sexual Acts by Threat to Honour or Reputation;
 - 1.3. Sexual assault;
 - 1.4. Degradation of Sexual Identity;
 - 1.5. Sexual Abuse of Persons with Mental or Emotional Disorders or Disabilities;
 - 1.6. Sexual Abuse of Persons Under the Age of Sixteen (16) Years;
 - 1.7. Promoting Sexual Acts or Sexual Touching By Persons Under the Age of Sixteen (16) Years;
 - 1.8. Sexual Abuse by Abusing Position, Authority or Profession;
 - 1.9. Facilitating Prostitution;
 - 1.10. Abuse of Children in Pornography;
 - 1.11. Showing Pornographic Material to Persons under the Age of Sixteen (16) Years;
 - 1.12. Sexual Relations within Family Units;
 - 1.13. Cohabiting with Persons Under the Age of Sixteen Years in Extramarital Community;
 - 1.14. Changing the Family Status of a Child;
 - 1.15. Unlawful Abduction of a Child;
 - 1.16. Mistreating or Abandoning a Child;

- 1.17. Violating Family Obligations;
- 1.18. Avoiding Maintenance Support;
- 1.19. Prevention and Non-Execution of Measures for Protecting Children;
- 1.20. Conscription or Enlisting of Persons between the Age of Fifteen (15) and Eighteen (18) Years in Armed Conflict;
- 1.21. Establishing Slavery, Slavery-like Conditions and Forced Labour;
- 1.22. Trafficking in persons; and
- 1.23. Withholding Identity Papers of Victims of Slavery or Trafficking in Persons.

Article 146

1. Proceedings against a person who commits a criminal offence under Article 145 of the present Code against a child shall be conducted in accordance with the provisions of the Kosovo Code of Criminal Procedure, except the provisions on the issuance of a punitive order defined with provisions of the Kosovo Code of Criminal Procedure.
2. Police officers who specialize in criminal offences against minors shall investigate such criminal offences.

Article 147

1. When conducting proceedings involving a criminal offence committed against a child, the authorities or institutions shall act with particular care in relation to the child who suffered harm from the criminal offence, bearing in mind his or her age, personal characteristics, education and the environment in which he or she lives, so as to avoid any possible harmful consequences for his or her upbringing and development. The examination of the child shall be conducted with the assistance of a pedagogue, psychologist or another expert.
2. If a child against whom a criminal offence referred to Article 145 of the present Code is committed is examined as a witness, such examination shall be conducted at most twice. The examination shall be conducted with the assistance of a pedagogue, psychologist or another expert. The court may order that the witness be examined outside the courtroom by means of closed circuit television.
3. A child against whom a criminal offence referred to Article 145 of the present Code is committed may be examined as a witness in his or her own home or some other location where he or she is present or a Centre for Social Work rather than in the court. Paragraph 2 of this article shall apply to such examination.
4. Any technical recording of the examination conducted by closed circuit television under paragraph 2 of this article shall be destroyed within five (5) years of the entry into force of the judgment.
5. Article 50 of the present Code shall apply mutatis mutandis to proceedings involving a criminal offence committed against a child.

Article 148

The juvenile judge shall inform the competent Guardianship Authority of the facts and evidence that were established in the criminal proceedings to have contributed to or facilitated the commission of the criminal offence so that appropriate measures for the protection of the rights and the well-being of the child can be undertaken.

Article 149

If it is established during criminal proceedings that the parent is abusing or grossly neglecting parental duties and rights or is violating the rights of the child, the prosecutor shall initiate non-contentious proceedings to remove the rights of parental care from the parent.

Article 150

As a rule, the court within whose territory the injured party has a permanent residence shall have territorial jurisdiction for proceedings involving criminal offences committed against a child whereas proceedings may be conducted before the court within whose territory the criminal offence has been committed if the proceedings will be conducted more easily before that court.

Article 151

Article 51 of the present Code shall apply *mutatis mutandis* to adjudicating a criminal offence under Article 145 of the present Code committed against a child.

Article 152

1. The juvenile panel of the municipal court and the juvenile panel of the district court at first instance shall be composed of a juvenile judge and two (2) lay judges. When the juvenile panel adjudicates at first instance a criminal offence punishable by imprisonment of at least fifteen (15) years or by long-term imprisonment, it shall be composed of two (2) judges, of whom one is a juvenile judge, and three (3) lay judges.
2. The juvenile panel of the Supreme Court of Kosovo shall be composed of three (3) judges when adjudicating at the second instance. When the juvenile panel is adjudicating at the
3. main trial a criminal offence punishable by imprisonment of at least fifteen (15) years, it shall be composed of five (5) judges, of whom three (3) are judges for minors, whereas when it adjudicates at second instance with a hearing, the juvenile panel shall be composed of two (2) judges for minors and three (3) lay judges. When adjudicating at third instance and deciding on extraordinary legal remedies, the panel shall be composed according to the Kosovo Code of Criminal Procedure.
4. In cases without a hearing, the panel shall be composed according to the Kosovo Code of Criminal Procedure. However, at least one member of the panel shall be a juvenile judge.

5. The judge in summary proceedings is the juvenile judge of the municipal court.

Article 153

Proceedings involving a criminal offence under Article 145 of the present Code committed against a child shall be conducted expeditiously and without unnecessary delay.

**PART SIX
TRANSITIONAL AND FINAL PROVISIONS**

**CHAPTER XXII
TRANSITIONAL AND FINAL PROVISIONS**

Article 154

An institutional education measure which has been imposed by a final decision before the date of the entry into force of the present Code cannot last longer than the period of time provided by the present Code.

Article 155

Juvenile imprisonment, which has been imposed by a final decision before the date of the entry into force of the present Code for a longer period of time than could be imposed in accordance with Article 34, paragraph 2 of the present Code, shall be reduced in accordance with the provisions of the present Code.

Article 156

Preparatory proceedings initiated before 6 April 2004 but which were not completed by this date shall be continued and finished according to the provisions of the previous applicable law.

Article 157

1. Criminal proceedings at first instance under Part Three of the present Code in which the motion of the public prosecutor was filed before 6 April 2004 but which were not completed by this date shall be continued according to the provisions of the previous applicable law until:
 - 1.1. The criminal proceedings are dismissed in a final form by a ruling; or
 - 1.2. The judgment rendered at the main trial becomes final.
2. Criminal proceedings at first instance under Part Five of the present Code in which the indictment, summary indictment or private charge was filed before the date of entry into force of the present Code but which have not been completed by this date shall be continued according to the provisions of the previous applicable law until

Criminal laws

- 2.1. The criminal proceedings are dismissed in a final form by a ruling; or
- 2.2. The judgment rendered at the main trial becomes final.

Article 158

Upon the entry into force of the present Code, if any prescribed period of time is running, such period shall be counted pursuant to the provisions of the present Code, except if the previous period of time was longer or the provisions of the present Chapter provide otherwise.

Article 159

Up to the time when will be setup of Prosecutorial Council, where mediator is chosen by Prosecutor, the expenses regarding the mediation procedure, including the payment of mediator shall be paid from Ministry of Justice budget.

Article 160

The competent authorities shall issue sub-legal acts for the application of this Code in a six (6) months term from the day of entry into force of this Code.

Article 161

The present Code shall supersede Juvenile Penal Law UNMIK, Regulation No.2004/8 of the date 20.02.2004 and any provision of the applicable law which is inconsistent with it.

Article 162

This Code shall enter into force fifteen (15) days after its publication in the Official Gazette of Republic of Kosovo.

Code No. 03/L-193
8 July 2010

Promulgated by the Decree No. DL-039-2010, dated 28.07.2010, of the President of Republic of Kosovo, Dr. Fatmir Sejdiu.

OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 30 / 09
NOVEMBER 2012, PRISTINA

LAW No. 2004/34
SUPPRESSION OF CORRUPTION LAW

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Assembly of Kosovo,

Based on the authority granted to the Provisional Institutions of Self-Government by UNMIK Regulation No. 2001/9 of May 15 2001, “On a Constitutional Framework of Self-Government”, in particular Chapters 5.1 (r), 5.2 (b), 9.1.1., 9.1.26 and 11.2 thereof,

Recognizing that UNMIK Regulation No. 2003/25 of 6 July 2003 “On the Provisional Criminal Code of Kosovo” incriminates several criminal offences of corruption.

For the purpose of protection of the rule of law, democracy and human rights, good governance, fairness and social justice, competition, economic growth, general trust in public institutions and moral values of society,

Hereby adopts the following:

SUPPRESSION OF CORRUPTION LAW

CHAPTER 1
GENERAL PROVISIONS

Article 1

This Law foresees anti-corruption measures within the scope of the anti-corruption strategy, particularly in the field of administrative investigation of public corruption, eliminating the causes of corruption, the incompatibility of holding public office and performing profit-making activities for official persons, restrictions regarding the acceptance of gifts in connection with their execution of office, supervision of their assets and those of persons from their domestic relationship, and restrictions regarding

contracting entities participating in public tenders conducting business transactions with firms in which the official person or person from his/her domestic relationship is involved.

Article 2

For the purposes of this Law, individual expressions in the text are defined as follows:

Corruption - shall mean every violation of duty of official persons or responsible persons in legal entities and every activity of initiators or beneficiaries of such behavior, committed in response to a directly or indirectly promised, offered, given, demanded, accepted or expected reward for oneself or some other person.

Official person - shall mean a person in regard of Article 107, paragraph 1 of Provisional Penal Code for Kosovo.

Responsible person in legal entity - shall mean a person in regard of Article 107, paragraph 2 of Provisional Penal Code for Kosovo.

Senior official person - shall mean the President of Kosovo, the Prime Minister, elected members of the Assembly, ministers, secretaries of the government, permanent secretaries, directors of offices within ministries, judges and prosecutors and international senior officials in the meaning of this Law.

Domestic relationship - means the relationship between two persons:

who are in unlimited consanguinity, in indirect line up to the fourth step, and in affinity up to the second step.

Serious corruption offence - shall mean a corruption offence as defined in the Criminal Code of Kosovo, which involves values of 10.000 € or the participation of a senior public official.

Personal advantage - shall mean achieving any material or immaterial benefit in the form of a right or advantage that is not due to that person as well as providing such an advantage for another party.

Article 3

- 3.1. No one may abuse his/her office or duty by performing, or failing to perform an act, which under law must not, i.e. must be performed, nor to subordinate the implementation of a legal action to one's own personal interest or the interest of another party.
- 3.2. The official person from whom his/her superior asks in performing his/her service to act in an illegal, dishonest and disloyal way towards the public body, or to give privilege or discriminate an individual or legal entity, is required to inform his/her direct superior in writing, if the direct superior after the oral opposing still insists on the demands mentioned above.
- 3.3. Only after the written statement the official person is relieved from the obligation to perform illegally such an official activity, and may not be held accountable for that but it is obligated to inform the competent public bodies and the Kosovo Anti-Corruption Agency.

Article 4

- 4.1. Everyone has the right to an equal approach in the performance of activities of public interest and equal treatment on the part of official persons, without being the victim of corruption.
- 4.2. The official person is obligated to carry out his/her function or duty conscientiously, expertly, without discrimination or privileges for anyone, with due respect for human freedoms and rights and human dignity.
- 4.3. Everyone has the right to free appearance on the market and to free competition, without fearing becoming a victim of monopolistic or discriminatory behaviour, which results from corruption.

Article 5

- 5.1. When an individual or a legal entity believes that the decision of the official person or the decision of the responsible person in legal entity was made because of corruption he/she may address in writing the Kosovo Anti-Corruption Agency.
- 5.2. The Kosovo Anti-Corruption Agency is obliged to review the address and within 60 days of receiving it to inform the individual or the legal entity about the findings following the address.

Article 6

- 6.1. Performing public functions or duties is transparent and liable to public control.
- 6.2. No one can use the law or other regulation that limits or excludes the transparency or publicity in order to cover up the misuse of a function or duty for personal advantage.

Article 7

- 7.1. Legal acts resulting from corruption are invalid. Person having a legal interest may demand their revoking.
- 7.2. The person damaged by a corruption act may request damage compensation.

CHAPTER 2 KOSOVO ANTI-CORRUPTION AGENCY

Article 8

- 8.1. For the purpose of discharging the responsibilities defined by this Law, and independent body known as the Kosovo Anti-Corruption Agency (hereinafter: the Agency) shall be created.
- 8.2. The funds for the functioning of the Agency shall be provided from the Kosovo Consolidated Budget on the Agency's proposal. The Agency shall decide on the methods of utilizing of the funds.

Article 9

- 9.1. The operations of the Agency shall be managed by one director who is a permanent resident of Kosovo.
- 9.2. The director shall be over 35 years of age, shall have a university education and shall be considered personally suitable to perform the functions in the Agency.
- 9.3. The director shall have a term of office of five years and may be reappointed once.
- 9.4. The function of the director of the Agency shall not be compatible with any position in the Government, Assembly, local authorities, political parties or trade unions, or with performing any work in a public domestic, international or supranational organization or local authority.
- 9.5. The Agency shall engage the necessary number of other staff.
- 9.6. The Agency may outsource experts and professionals.

Article 10

- 10.1. The Council shall initiate the procedure for the selection of new Agency's director through a public invitation, 6 months prior to expiration of his mandate.
- 10.2. The council initiates the procedure mentioned above through a public announcement with proposal for filling the position of the director. Proposals shall be submitted within 30 days of made invitation.
- 10.3. The Council recommends two candidates to the Assembly of Kosovo for the position of the director. The Assembly of Kosovo appoints one of the proposed candidates.
- 10.4. If the candidate procedure or the selection or nomination of candidates is unsuccessful, the procedure shall be repeated until the director is nominated.

Article 11

The director of the Agency may be prematurely discharged:

- a) if he so request,
- b) if he is incarcerated for criminal acts,
- c) if he fails to stop performing work or functions that are not compatible with the position of director,
- d) as a result of permanent or partial loss of the ability to perform his job,
- e) if he breaches applicable law in the course of his duties.

Article 12

The director of the Agency shall represent, lead and organize the working of the Agency and, in accordance with the law, shall carry all other powers and responsibilities of heads of the body.

Article 13

Following prior proposal given by the Agency, the Council shall adopt rules of procedure which shall define the Agency and its method of approach in greater detail. The rules of procedure shall be published in the Official Newspaper.

Article 14

The Agency shall be allowed to carry out administrative investigations relating to disciplinary actions against civil servants.

Article 15

Public bodies, local authorities and official persons shall be required to provide the Agency, at its request, with all information they require to perform their tasks, and to enable them to inspect any relevant documentation.

Article 16

- 16.1. Official persons shall report cases of corruption, which come to their knowledge, to the Agency. The Agency shall forward all such cases to the Office of the Public Prosecutor of Kosovo (OPPK) for consideration.
- 16.2. Any person that had discovered information that indicates existence of corruption in a good faith will not suffer any harmful consequences..
- 16.3. Every person who has discovered information that signifies on confidence the existence of corruption shall not have a bad consequence.
- 16.4. A person that had given a statement or acted as a witness in a process on a corruption offence is provided with protection provided for in the Criminal Procedure Code of Kosovo and is entitled to damage compensation that s/he or a member of his/her family may suffer due to the given statement or testimony.

Article 17

Persons who are preventing, discovering or investigating corruption enjoy full independence for the purpose of efficient carrying out of their competencies and obligations, and no undue pressure shall be imposed upon their work or when undertaking certain concrete actions in compliance with the present Law.

Article 18

The Agency submits annual report, approved by the Council which shall be adopted by the Assembly of Kosovo.

Article 19

- 19.1. An Agency Council shall be established to exercise direct supervision of the Agency.

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- 19.2. The Agency Council shall comprise 9 (nine) members, 3 (three) members appointed by the Assembly and 1 (one) member appointed by each: the President's Office, the Government, the Supreme Court, the Public Prosecutor's Office, the local authorities and the civil society.
- 19.3. Members are entitled to the remuneration of expenses arising from their work in the Agency Council.
- 19.4. Members of the Agency Council shall have a term of office of two years and may be reappointed. Two months prior to the expiry of the mandate, the institutions mentioned under paragraph two of this article shall perform the necessary procedure and nominate new Council members.

Article 20

The Agency Council shall have a president and deputy president elected by the members of the Agency Council from among themselves for a period of two years, and rules of procedure which shall regulate the details of the working of the Agency Council.

Article 21

- 21.1. The Agency Council shall be given regular and complete inspection of the Agency's work, and supervisions of assets of the official persons working in the Agency. To this end, the director of the Agency shall report to the Agency Council every six months on the contents and extent of supervision of assets, and on the findings of the Agency regarding incompatibility, conflict of interests, gifts and concluded investigations.
- 21.2. The Agency Council shall exercise its functions as determined by this Law provided that at least one half of the members are in attendance.

Article 22

Professional and technical tasks shall be provided to the Agency Council by the Agency.

Article 23

The agency:

- a) shall pass any information relating to possible corruption offenses to the OPPK for further action and shall conduct administrative investigations of alleged cases of corruption where no criminal proceedings will be initiated;
- b) shall co-operate with all domestic and international law enforcement authorities during investigation proceedings conducted by those authorities.
- c) prepares anti corruption strategy for the Government and approval by the Assembly and has the responsibility for making amendments and its implementation,
- d) supervise and analyze statistics which are in connection with corruption condition in Kosovo,

- e) take part together with competent public authorities in redaction and harmonization of acts on corruption prevention,
- f) supervises realization of these acts and ensures initiatives for their amendment,
- g) Participates as a main body in the field of anti corruption in similar organizations in other countries and international organizations which deal with corruption,
- h) Notifies Kosovar authorities on fulfillment of duties arising from international acts and offers recommendations on how to fulfill them,
- i) Participates together with professional, scientific, medial organizations and other nongovernmental associations on preventing corruption,
- j) Participates and advices during the drafting of platform and code of ethics in private and public sector,
- k) shall provide opinions and clarification on the incompatibility, conflict of interests, gifts and other issues related to the contents of this Law,
- l) shall participate and give advice on the elimination of the causes for corruption in the public and private sectors by organizing consultations, seminars, workshops and other forms of training,
- m) shall issue an annual report on the most serious and most common violations of laws, regulations and ethical principles.

CHAPTER 3 CONFLICT OF INTERESTS

Article 24

- 24.1. In case of a conflict between personal and general interests the official person is required to act according to the general interest.
- 24.2. There is a conflict between personal and general interests when by carrying out certain official or other activity touches upon the material and other interests of the official person or the person living with him/her in the domestic relationship.

Article 25

- 25.1. The official person who performs his/her job professionally (hereinafter: a professional official person) shall not independently or within the scope of his/her position perform professional or other activities intended to generate income without the prior written approval of his/her superior.
- 25.2. The approval of the superior can be given if activities from the first paragraph do not represent any danger for a conflict between the personal interests of the official person and general interests of his/her position.

Article 26

- 26.1. A professional official person shall not perform administrative, supervisory or representative functions in commercial companies, firms, institution, cooperatives, funds or agencies.

26.2. By way of derogation from the previous paragraph, a professional official person may, as a representative of their body, be a board member of a public institution or public agency, or a supervisory board member of a public company, public fund or commercial company in which the central or a local authority is a holder of shares or other rights on the basis of which it participated in the management or capital.

Article 27

A non-professional official person shall not hold an administrative or representative function in a public institution, company, fund or agency over which their position gives him/her a supervisory role.

Article 28

A official person who previously held a post which, according to this Law, is incompatible with their public function shall be required to relinquish their post immediately after election or nomination, or the confirmation of their mandate.

Article 29

- 29.1. If, after election or nomination or confirmation of the mandate, a official person continues to perform an activity or function which this Law determines to be incompatible with their new function, the Agency shall issues a warning to the official person and determine a deadline by which they shall be required to stop performing the activity or relinquish the position. The deadline determined by the Agency shall not be shorter than fifteen days or longer than three months.
- 29.2. In the event that the official person referred to in the preceding paragraph continues to perform incompatible activities or functions despite the Agency's warning, the Agency shall propose that the procedure terminating the position be initiated by the competent body.
- 29.3. If the competent body determines that the official person is performing an incompatible activity or function, it shall initiate the procedure for terminating the function. The competent body shall inform the Agency about its final ruling.

Article 30

Contracting entities participating in public tenders conduct business transactions with a commercial in accordance with the Law No. 2003/17 on Public Procurement (UNMIK Regulation No. 2004/03 for promulgation of the Law approved by the Assembly of Kosovo on Public Procurement in Kosovo).

Article 31

The Agency shall regularly publish in the Official Newspaper a list of commercial undertakings with which, pursuant to the provisions of this Law, contracting entities

participating in public tenders referred to in article 33 may not conduct business transactions.

Article 32

- 32.1. The commercial undertakings referred to in the third paragraph of Article 33 of this Law are not entitled to public aids from the Kosovo Consolidated Budget.
- 32.2. Agricultural holdings owned by the official person or by the person from his/her domestic relationship are also not entitled to public aids from the Kosovo Consolidated Budget.
- 32.3. The provisions of the preceding two paragraphs shall not apply to public aids from the Kosovo Consolidated Budget in the case of natural emergencies or extraordinary events.

CHAPTER 4 ACCEPTANCE OF GIFTS

Article 33

- 33.1. An official person shall not accept gifts or other benefits (hereafter: gifts) in connection with their execution of office, except for formal gifts and occasional gifts of small value.
- 33.2. Formal gifts shall be considered gifts presented by the representatives of foreign countries and international organizations during visits and other opportunities, as well as other gifts presented under similar circumstances.
- 33.3. Occasional gifts of small value shall be considered gifts presented at various working and personal jubilees, holidays and similar occasions, and shall not exceed EUR 50 in value, or their total value shall not exceed EUR 100 in a single year if they are presented by the same person.
- 33.4. Official persons may not accept more than 10 occasional gifts within a year.
- 33.5. The prohibitions and restrictions arising from this article are also applicable to the persons living in the domestic relationship with the official person.

Article 34

- 34.1. All received gifts and their corresponding value shall be recorded by the official person in the catalogue of gifts kept by the body at which the official person performs his function.
- 34.2. Should the value of the gift be determined to exceed the value described in the preceding article, the gift shall become the property of the public authority, under the safekeeping of the body at which the official person performs his function.
- 34.3. Formal gifts, regardless of their value, shall become the property of the public authority, under the safekeeping of the body at which the official person performs his function.

Article 35

- 35.1. Public bodies that are obliged by law to keep a catalogue of gifts shall forward copies of the catalogue for the previous year to the Agency by the last day of March of the following year.
- 35.2. The Agency shall report any deviation from legal restrictions to the public body that provided the catalogue.

Article 36

Should the Agency determine that, in a specific case, the official person was on breach of the provisions of articles 34 and 35 of this Law, it shall inform the body at which the official person holds his/her position.

CHAPTER 5 SUPERVISION OF ASSETS

Article 37

- 37.1. The Agency shall supervise the assets of senior official persons.
- 37.2. Should the Agency, in the course of its supervision as provided for by this Law, find that there is apparent non-conformity between the submitted information on the assets of the senior official person or the person living with the official person in his/her domestic relationship and the actual status of the assets, the Agency shall notify the body at which the senior official person holds their office and, if necessary, other competent bodies as well.
- 37.3. The bodies referred to in the preceding paragraph shall inform the Agency of their measures and decisions.

Article 38

The body in which the senior official person holds the office shall notify the Agency in seven days after the beginning or conclusion of the duty of that person.

Article 39

The Agency shall supervise the senior official person's assets on the basis of information submitted by the senior official person on a special form, which shall be determined by the Agency.

Article 40

Within one month of assuming office, the senior official person shall provide the Agency with the following information:

- a) the function being performed professionally or non-professionally,
- b) other functions or activities being conducted by the official person,

- c) functions conducted by the official person immediately prior to assuming office,
- d) the status of their assets and the assets of persons living with them in their domestic relationship.

Article 41

- 41.1. Information regarding the status of the assets of the senior official person or the person living with the senior official person in his/her domestic relationship shall comprise information about all their assets and income, as follows:
- a) real estate,
 - b) movable property of greater value,
 - c) their holding of shares in commercial companies,
 - d) securities,
 - e) cash held in banks, savings banks and other savings and loans institutions,
 - f) debts, undertaken sureties and other obligations, and
 - g) annual income (serving as a tax base).
- 41.2. Movable property of greater value as referred to point (b) of the preceding paragraph shall be considered to be movable property whose value exceeds 5.000 EUR.
- 41.3. The Agency may demand appropriate proof from the senior official person for the information referred to in paragraph one of this article.

Article 42

- 42.1. Any changes to the assets status referred to in indents 1 to 6 of paragraph one of the preceding article shall be reported by the senior official person to the Agency annually until the last day of March.
- 42.2. The Agency may at any time request that the senior official person submits the information referred to in indents 1 to 6 of paragraph one of the preceding article. The senior official person shall comply with the Agency's requests within fifteen days of receiving the request.

Article 43

- 43.1. Should the senior official person fail to submit the information referred to in article 41 or 42 of this Law within the deadlines determined by this Law, the Agency shall issue a warning and determine a new deadline, which shall be no less than fifteen days from the day the warning was delivered.
- 43.2. Should the senior official person fail to submit the required information within the deadline determined in the preceding paragraph, the Agency shall inform the body in which the senior official person is executing his office or the body responsible for determining the payment of wages or wage compensation.
- 43.3. In the case described in the preceding paragraph, the wage or wage compensation shall be reduced by one-fifth every month following the expiry of the deadline referred to in paragraph one of this article, and until the Agency's

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- notice that the senior official person submitted the required information is received.
- 43.4. Should the senior official person fail to submit the required information within three months of the expiry of the deadline referred to in paragraph one of this article, the Agency shall notify the body responsible for initiating the procedure for termination of office. The payment of wage or wage-compensation shall be stopped.
- 43.5. If the competent body determines that the senior official person failed to submit the required information, it shall initiate the procedure for the termination of office and inform the Agency about its final ruling.

CHAPTER 6 DATA PROTECTION AND STORAGE AND RECORD KEEPING, CONFIDENTIALITY OF INFORMATION

Article 44

- 44.1. Members of the Agency, the Agency Council and any persons employed by the Agency shall be required to guard as an official secret any information acquired by the Agency in the execution of its duties that is considered an official secret.
- 44.2. All persons who come into contact with official secrets during their co-operation with the Agency shall be informed about the obligation to protect official secrets and the consequences of their release. Individuals shall confirm by signature that they have been acquainted with the warning.
- 44.3. Even after the termination of the employment, persons referred to in Paragraph 1 of this Article shall be obliged to keep the professional secret within the following 15 years, unless the director of the Agency decides otherwise.

Article 45

Data acquired in accordance with this Law shall only be used for the purposes defined by this Law.

Article 46

- 46.1. The Agency shall be obliged to keep any data, information and documentation acquired on the basis of this Law for a period of 15 years after the conclusion of the matter.
- 46.2. The Agency shall keep the following records:
- a) records on corruption investigations and involved persons,
 - b) records on official persons and persons living with them in a domestic relationship (personal name, date of birth, place of stay and place of residence),
 - c) records on commercial undertakings referred to in Article 33 of this Law (name of the commercial undertaking, registration number and head office) and agricultural holdings referred to in paragraph two of Article 35 of this Law,

- d) records on the catalogue of gifts referred to in paragraph one of Article 37 of this Law, and records on notification referred to in paragraph two of Article 38 and Article 39 of this Law,
 - e) records of information from articles 43 and 44 of this Law for the persons mentioned in the second indent of this paragraph.
- 46.3. The data and information in the records kept by the Agency pursuant to this Law must be stored for a period of 15 years and then archived or dealt with in accordance with the Law.

CHAPTER 7 ADMINISTRATIVE SANCTIONS

Article 47

- 47.1. Contracting entities participating in public tenders shall be required to pay a fine of 50% of the value of the contract if it is confirmed that they have issued a public tender to commercial undertaking referred to in paragraph three of Article 33 of this Law.
- 47.2. The responsible persons of the contracting entities participating in public tenders shall be obliged to pay a fine from EUR 5.000 to EUR 50.000 if they are found to have committed the breach referred to in the preceding paragraph.

CHAPTER 8 TRANSITIONAL AND FINAL PROVISIONS

Article 48

The bodies of the official persons referred to in Article 2 of this Law shall be required to submit a list of official persons and persons living in their domestic relationship to the Agency within three months after the Agency becomes functional.

Article 49

- 49.1. Official persons shall be required to submit to the Agency the information referred to in articles 43 and 44 of this Law within six months after the Agency becomes functional.
- 49.2. Official persons shall be required to terminate the activities determined by this Law to be incompatible with the execution of office or to acquire the approval of the superior referred to in Article 28 of this Law within six months after the Agency becomes functional.

Article 50

Within fifteen days after the Agency becomes functional, the directors shall invite the institutions referred to in the second paragraph of Article 19 of this Law to appoint the members of the Agency Council. The constitutive session shall be convened by the

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directors of the Agency within fifteen days of receiving information on the appointment of the last member of the Agency Council.

Article 51

- 51.1. The Assembly of Kosovo appoints domestic director within 60 days after the promulgation of this Law.
- 51.2. The Agency shall commence functioning after the directors of the Agency have been appointed.

Article 52

- 52.1. Within twelve months after becomes functional, the Agency shall confirm the applicable anti-corruption strategy or submit for adoption through the President of the Assembly the appropriate and relevant amendments and supplements to already adopted strategies or a new strategy.
- 52.2. The proposal for the rules of procedure referred to in Article 14 of this Law shall be submit by the Agency for approval to the Agency Council within three month following the appointment of the Agency director.
- 52.3. The Council shall issue an opinion on the proposed rules of procedure within thirty days of its submission. Within fifteen days of receiving approval for the rules of procedure, the Agency shall issue acts regarding internal organization and systemization.

Article 53

The present law shall enter into force after adoption by the Assembly of Kosovo, signature of the president of the Assembly and on the date of its promulgation by the Special Representative of the Secretary -General.

On 12 May 2005

UNMIK/REG/2005/26

OFFICIAL GAZETTE OF THE PROVISIONAL INSTITUTIONS OF SELF-GOVERNMENT IN KOSOVO / PRISHTINA: YEAR II / NO. 10 / 01 MARCH 2007

LAW No. 04/L-030
ON LIABILITY OF LEGAL PERSONS FOR CRIMINAL OFFENCES

Contents

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Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo;

Approves:

LAW ON LIABILITY OF LEGAL PERSONS FOR CRIMINAL OFFENCES

CHAPTER I
GENERAL PROVISIONS

Article 1
Purpose

This law regulates the liability of legal persons for criminal offences; penal sanctions that may be imposed to legal persons and special provisions that regulate the applicable procedure against the legal person.

Article 2
Definitions

1. Terms used in this law shall have the following meanings:
 - 1.1. **Responsible person** – natural person within the legal person, who is entrusted to perform the certain tasks, or is authorized to act on behalf of the legal person and there exists high validity that he/she is authorized to act on behalf of the legal person.
 - 1.2. **Legal Person** - a legal or foreign legal person, who according to the Kosovo legislation is considered as a legal person.
 - 1.3. **Penal sanctions** – the violence measures of a penal-legal character imposed to a legal person.

Article 3
Implementation of the criminal legislation

1. Unless this law expressly provides otherwise, the provisions of Criminal Code of Kosovo and Criminal Procedure Code of Kosovo shall be applicable against legal persons.
2. Legal persons may take liability for criminal offences provided for in special part of the Criminal Code of Kosova and for other criminal offences, provided the conditions for the criminal liability of legal persons are met, as foreseen by this law.

Article 4
Territorial jurisdiction of the law

1. This law applies for:
 - 1.1. national legal persons and foreign legal persons who are liable for criminal offences committed in the territory of the Republic of Kosova;
 - 1.2. foreign legal person, who is liable for the criminal offence committed outside of the state, damaging the Republic of Kosova, its citizens or causing damage to national legal persons;
 - 1.3. national legal person, who is liable for having committed a criminal offence outside the state.
2. In case of paragraph 1., subparagraphs 1.2. and 1.3. of this Article, this law shall not apply if the special conditions for prosecution from the specific provisions of the Criminal Code of Kosova are met.
3. The Republic of Kosovo, state administrative and local governance bodies and foreign governance organizations acting in the Republic of Kosovo shall not be liable for criminal offence, however the responsible person shall be liable for criminal offence.
4. A legal person, to whom was trusted by law the exercise of legal authorizations shall not be liable for a criminal offence committed during the exercise of these authorizations.

CHAPTER II
ASSUMPTIONS OF CULPABILITY

Article 5
Grounds and limit of liability of legal persons

1. A legal person is liable for the criminal offence of the responsible person, who has committed a criminal offence, acting on behalf of the legal person within his or her authorizations, with purpose to gain benefit or has caused damages for that legal person. The liability of legal person exists even when the actions of the legal person were in contradiction with the business policies or the orders of the legal person.
2. Under the conditions provided for in paragraph 1. of this Article, the legal person

shall be liable for criminal offences also in cases if the responsible person, who has committed the criminal offence, was not sentenced for that criminal offence.

3. The liability of the legal person is based on the culpability of the responsible person.
4. The subjective element of the criminal offence, which exists only for the responsible person, shall be evaluated in relation with the legal person, if the basis for the liability provided for in paragraph 1. of this Article, was fulfilled.

Article 6

Liability in case of change of status and bankruptcy of the legal person

1. If the legal person ceases to exist before the criminal proceedings are concluded, the pecuniary punishment, security measures and confiscation of material benefit may be imposed to a legal person, provided the criminal liability of legal person, was established previously, who ceased to exist.
2. If the legal person ceases to exist after the criminal proceedings have ended, pecuniary measures, security measures and confiscation of material benefit shall be executed in accordance with paragraph 1. of this Article.
3. A legal person before bankruptcy shall be punished for criminal offences committed before the initiation or during the development of bankruptcy procedure.

Article 7

Attempt of the criminal offence

1. A legal person is responsible also for the criminal offence of attempt according to the conditions set out in paragraph 1. of Article 5 of this law, if the law provides for the attempt to be punishable.
2. A legal person (responsible person) for attempt shall be punished with the punishment provided for in this law for criminal offences, whereas he or she may be punished more leniently.
3. A legal person who voluntarily has omitted the realization of the criminal offence, his punishment may be waived.

CHAPTER III

PUNISHMENTS AND OTHER CRIMINAL LEGAL SANCTIONS

Article 8

Types of sanctions

1. For criminal offence may be imposed the following punishments: suspended sentence and security measure.
2. Types of punishments that may be imposed for criminal offence of legal persons are: fines and termination of work.

Article 9
Punishment by fine

1. For criminal offences of legal persons, the foreseen punishment by fine may not be less than one thousand (1.000) Euros and more than one hundred thousand (100.000) Euros.
2. The punishment by fine is imposed with the following amounts:
 - 2.1. for criminal offences where the punishment provided for is by imprisonment from fifteen (15) days to three (3) years, the court may impose the punishment by fine, from one thousand (1.000) to five thousand (5000) Euros;
 - 2.2. for criminal offences where the punishment provided for is imprisonment from three (3) to eight (8) years, the court may impose the punishment by fine from five thousand (5000) to fifteen thousand (15.000) Euros;
 - 2.3. for criminal offences where the punishment provided for is by imprisonment from eight (8) to twenty (20) years, the court may impose a punishment by fine from fifteen thousand (15.000) to thirty five thousand (35.000) Euros;
 - 2.4. for criminal offences where the punishment provided for is by long term imprisonment, the court may impose a punishment by fine, from thirty five thousand (35.000) Euros to one hundred thousand (100.000) Euros.

Article 10
Evaluation of the punishment by fine

1. The court shall evaluate the punishment by fine of the legal person within the limits of the punishment provided for by law for that criminal offence, by considering all the circumstances that affect for the punishment to be more severe or lenient (aggravating circumstances or mitigating circumstances), especially:
 - 1.1. the gravity of the committed criminal offence;
 - 1.2. the consequences that have occurred or could have occurred;
 - 1.3. the circumstances under which the criminal offence was committed;
 - 1.4. the economic power and the competencies of the legal person;
 - 1.5. the function and the number of responsible persons in a legal person, who have committed a criminal offence;
 - 1.6. the conduct of a legal person after the committal of the criminal offence;
 - 1.7. the measures that were taken by the legal person with the purpose to omit and report the criminal offence;
 - 1.8. rapport with the victim of the criminal offence;
 - 1.9. The conduct of the legal person for the criminal offence, including the acceptance of responsibility for the committed criminal offence.
2. During the imposition of the punishment, the court shall consider especially the fact whether the legal person has any previous record for a criminal offence, the type of the criminal offence committed previously, is it the same as the new criminal offence and how much time has passed since the first punishment.
3. The court may impose a punishment under the provided measures for the criminal offence (a more lenient punishment) when this is provided for by law or provisions

under which the criminal offence is established or if there are any mitigating circumstances. The punishment may be mitigated up to the lightest measure, provided for by Article 12, paragraph 1. of this law.

4. The court may impose a more severe punishment to the legal person or responsible person, as provided for the criminal offence that was committed, up to the double amount of measure for the highest punishment, if the perpetrator is a multiple recidivist.
5. A multiple recidivism for the legal person, under paragraph 4. of this Article, shall exist if:
 - 5.1. the legal person was convicted at least twice for a similar criminal offence by more than thirty five thousand (35.000)Euros and if since the termination of the last punishment, have not elapsed more than five (5) years;
 - 5.2. for similar criminal offences has been sentenced to imprisonment at least two times or punished by fine of fifteen thousand (15.000) Euros, if from the last punishment by imprisonment that was imposed to that person, have not elapsed more than five (5) years and if the perpetrator has an affinity to commit such criminal offences.

Article 11

Cessation of work of the legal person

1. The punishment by cessation of work may be imposed, if the legal person was established for the purpose of committing criminal offences or has used its activities mainly for the committal of criminal offences.
2. The punishment of cessation of work may not be imposed on units of local self-governance and political parties.
3. Following the final decision on the cessation or work of the legal person, shall be implemented the liquidation of the legal entity in accordance with the law.

Article 12

Suspended sentence

1. The court may impose to a legal person a suspended sentence for criminal offence.
2. In a suspended sentence, the court may impose to a legal person a punishment up to fifty thousand (50.000) Euros, but that punishment shall not be executed provided the legal person sentenced for that time as imposed by court, which can not be less than one and not even longer than two (2) years (validation period) does not commit any new offence which contains elements of the criminal offence provided for in Article 5 of this law.
3. In a suspended sentence the court may impose the punishment to be executed even if the legal person who is sentenced for a certain time does not return the material benefit gained through the committal of the criminal offence, does not compensate the damage that was caused by the committal of the criminal offence or does not fulfil its obligations provided for in penal provisions. The time limit for the fulfilment of these obligations is determined by court within the set time limit or validation.

4. From the side of the imposition of the suspended sentence, conditions for the imposition of sentences, its effect and revocation of the punishment are implemented in accordance with the provisions from Articles 42 to 48 of Criminal Code of Kosovo.

Article 13 **Security measures**

1. Legal persons, who are liable for criminal offences, may be imposed the following security measures:
 - 1.1. prohibition of work or certain functions;
 - 1.2. confiscation of assets;
 - 1.3. confiscation of material benefit;
 - 1.4. publication of the judgment.
2. Prohibition to conduct activities and certain works may be imposed:
 - 2.1. in connection to one or more activities and duties during the performance of which was committed the criminal offence;
 - 2.2. the legal person in a time limit up to three (3) years, calculating from the imposition of the punishment with a final decision, if the continuation of the activities and responsibilities would endanger the life, health and security of the people or property, or if the legal person has been previously convicted for the same or similar criminal offence.
3. Security measures of confiscation of assets has to deal with assets that were used or served for purpose to commit a criminal offence, which may be confiscated from the legal person, if he or she is the owner of these assets.
4. Assets provided from paragraph 1. of this Article may be confiscated also in cases when they are not owned by a legal person- the perpetrator of the criminal offence, if it is required by the interest to protect the life and body of persons, security of movement, other economic interests or for moral reasons, provided if the rights of the third person for the compensation of damage are not damaged.
5. The law may necessarily impose a protection measure of confiscation of assets.
6. Security measures – confiscation of proceeds of crime may be implemented as follows:
 - 6.1. the legal person can not keep for himself the material benefit which was gained through the committal of a criminal offence;
 - 6.2. material benefit shall be acquired with the court decision by which was found the committal of a criminal offence;
 - 6.3. if the legal person, to whom was imposed the measure of confiscation of material benefit since the final decision was taken, has ceased to exist, the material benefit shall be confiscated from the legal person to whom the property was transferred- up to the valued amount of this property;
 - 6.4. when it is found that the confiscation of material benefit consisted of money, rights or assets, can not be confiscated, the court may oblige the legal person to pay the counter value in Euros, whereas in the case of determination of a value shall be considered the value of the assets in market and rights at the time when the decision was taken.

7. The court may impose the security measure of publication of the judgment, if it considers that it would be useful for the public to know what the judgment is, especially if the publication of the judgment would contribute to the elimination of the endangerment to life or the health of persons or to protect the security of movement or any other economic interest.
8. The court shall decide according to the gravity of the criminal offence and the need to inform the public, if the judgment is publicized in press, television or radio or through information means also if the reasoning of the judgment shall be publicized fully or in extracts, provided if the manner of publication shall enable the notification of all persons that have an interest in the publication of the judgment.

Article 14 **Statutory Limitation**

1. The statutory limitation of criminal proceedings of legal persons is calculated according to the punishment provided for the legal person who has committed the criminal offence.
2. The criminal proceedings may not be commenced if the time provided for in Article 90 of Criminal Code of Kosovo has elapsed.
3. The statutory limitation on the sentence for criminal offence commences if three (3) years have elapsed since the final decision was taken.
4. The statutory limitation on the execution of protection measures commences:
 - 4.1. if six (6) months have elapsed from the day the decision on imposing the security measure becomes final. In case the asset is found abroad, the limitation term is eighteen (18) months from the day the decision becomes final;
 - 4.2. if three (3) years have elapsed from the day the judgment becomes final on the security measure;
 - 4.3. if three (3) months have elapsed from the day the judgment becomes final, based on which was imposed the protection measure of the publication of the judgment.

Article 15 **Record of imposed punishments**

1. Record on punishments of legal persons for criminal offences are kept by the first instance court in the territory of which is the residence of the national legal person, respectively the residence of the representative office or the branch of the foreign legal person.
2. The record on punishments of legal persons for criminal offences contains the following data:
 - 2.1. name, residence and activity of the legal person;
 - 2.2. registration number and matrix number;
 - 2.3. information on criminal offence, on punishment, suspended sentence, security measure;

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- 2.4. information on responsible person, having committed the criminal offence for which was punished the legal person;
- 2.5. further amendments to data that are contained in the record of punishments;
- 2.6. information on the punishment that was executed and the annulment of the record on the wrong punishment.
3. Information on the criminal record of legal persons may be disclosed, upon the presentation of a justifiable request.
4. Information on the criminal record may be disclosed only to court, prosecution and police, in relation with criminal proceedings against the legal person, who has been punished previously, to the body for the execution of penal sanctions and the body in charge of pardon or takes decisions of legal consequences of the punishment, when it is necessary for the carrying of work within their competencies.
5. Upon the presentation of a justified request of the state body or a legal person, may be disclosed information from criminal record only if the legal consequences of the punishment are extended or the security measures and if there is a justifiable interest based on law.
6. Legal person, upon their request, may provide information on punishment or the non-punishment only if this information serves for the realization of their rights.

Article 16

Legal consequences of the punishment and their cessation

1. Legal consequences of the punishment for a legal person may commence where the perpetrator is imposed a fine. For a legal person may commence the following legal consequences:
 - 1.1. prohibition of work based on license, authorization or concession issued by the state bodies;
 - 1.2. prohibition to acquire license, authorization or concession that are issued by the state bodies.
2. Legal consequences provided for in paragraph 1., subparagraph 1.2. of this Article may be foreseen not longer than five (5) years, starting from the day when the judgment becomes final.
3. After three (3) years have elapsed from the day when the punishment was served or prescribed, the court, upon the request of the sentenced legal person, may decide to cease the legal consequences of the punishment that deal with the prohibition of acquiring certain rights.
4. Based on the decision for the cessation of legal consequences of the punishment, the court shall consider the conduct of the sentenced legal person, whether the compensation of the damage that was caused was implemented and the material benefit from the criminal offence was returned as well as other circumstances that are related to the reasonability of the cessation of legal consequences of the punishment.

Article 17

**The subsidiary implementation of the provisions in the general part
of the Criminal Code**

1. For legal persons shall apply accordingly the provisions of the General Part of the Criminal Code of Kosovo for:
 - 1.1. criminal offence;
 - 1.2. act of minor significance;
 - 1.3. extreme necessity;
 - 1.4. incitement;
 - 1.5. assistance;
 - 1.6. limits on criminal liability and punishment for collaboration;
 - 1.7. manner of commission of criminal offences;
 - 1.8. time of commission of criminal offences;
 - 1.9. location of commission of criminal offences;
 - 1.10. purpose of suspended sentence;
 - 1.11. revocation of suspended sentences due to previously committed criminal offences;
 - 1.12. revocation of suspended sentences due to failure to perform obligations;
 - 1.13. deadlines for revocation of suspended sentences;
 - 1.14. commencement and interruption of periods of statutory limitation on criminal prosecution;
 - 1.15. commencement and interruption of periods of statutory limitation on the execution of punishments;
 - 1.16. meaning of terms.

**CHAPTER IV
PROCEDURE**

Article 18

Exclusive Procedure

1. For the criminal offence of a legal person and responsible person shall be filed and executed exclusive procedure and there shall be issued a judgment.
2. If for legal reasons and other reasons the criminal proceedings can not be initiated or executed against the responsible person, the procedure shall be initiated and executed only against the legal person.

Article 19

Territorial jurisdiction

1. Territorial jurisdiction, according to law is within the territory of the court where the criminal offence was committed or attempted to be committed.
2. If the territory where the criminal offence was committed is unknown or that place is outside of the territory of the Republic of Kosovo, the court within whose territory the defendant legal person has a residence, shall have the jurisdiction. In

case of suspicion, the residence shall be considered the place where the governing bodies of the legal person are located.

3. If a foreign legal person is trialed for a criminal offence, the court in whose territory is the representation office or branch of the legal person in the Republic of Kosovo, shall have the jurisdiction.

Article 20

Representative of the defendant legal person

1. In criminal proceedings the defendant legal person shall be represented by the representative of the legal person who is authorized to take all the actions that a defendant may undertake in criminal proceedings.
2. The representative of the legal person is the person who is authorized to represent this legal person according to law, act of the competent state body or statute, respectively another general act of the legal person.
3. The court shall verify the identity of the representative of the legal person and his or her authorization for representation in criminal proceedings.
4. The representative of the legal person is a person who runs the representative office, respectively the branch of this legal person in Republic of Kosovo.
5. A representative of the legal person may not be the person who was summoned by the court as a witness for the same case.
6. Representative of the legal person may not be the responsible person who is prosecuted for the same criminal offence of another criminal offence, except in the case if that person is the only member of that legal person.
7. The governing body or the managing body of the defendant legal person may appoint as a representative another person from its members.

Article 21

Appointment of a representative

1. The court that is conducting the criminal proceedings, in its first summon shall inform the defendant legal person whether they are obliged to appoint their representative within a time limit of eight (8) days from the day when the summon is served. If the legal person does not appoint a representative within the set time limit, the court shall appoint one of them as the representative.
2. If the defendant legal person ceases to exist before the end of criminal proceedings with a judgment which is final, its legal descendant shall appoint their representative in a time limit of eight (8) days from the day when the legal person ceased to exist; if not, the court conducting criminal proceedings shall appoint the representative.
3. The representative of the defendant legal person shall be appointed by the president of the court with a ruling that is given to the person who was appointed to be the representative of that legal person. An appeal is permitted against the decision, but an appeal shall not stay the execution of the ruling.

Article 22

Serving of decisions and legal documents to the legal person

All the decisions, communications, summons and other documents for the defendant legal person, shall be served to the address of the legal representative or to the residence of the legal person, respectively its branch.

Article 23

Conduct of the representative

If the duly summoned representative of the legal person fails to appear before court, the court conducting the proceedings may compel them to appear before court.

Article 24

Expenses of the representative

1. The expenses of the representative of the legal person shall be included in the costs of criminal proceedings.
2. The necessary expenses of the appointed representative in proceedings for criminal offences that are prosecuted ex-officio shall be paid previously from the means of the body that is conducting criminal proceedings, whereas the persons that are due to be compensated according to the Criminal Procedure Code of Kosovo shall be compensated later.
3. A defendant legal person shall cover for the expenses of proceedings that were caused by his/her fault to its representative.

Article 25

Defence counsel

1. A defendant legal person may engage a defence counsel.
2. A defendant legal person and the responsible person can not engage a joint defence counsel for the same offence.
3. The provisions in the Criminal Procedure Code of Kosovo of mandatory defence shall not apply for the defendant legal person.

Article 26

Dismissal of criminal report

1. The prosecutor, except for the grounds of the criminal report pursuant to Article 208, paragraph 1. of the Criminal Procedure Code of Kosovo, shall dismiss the criminal report also in the case when there are no grounds for the responsibility of the legal person, provided for by Article 5 of this law.
2. If the prosecutor finds that there are no grounds for initiation of criminal proceedings, he or she shall be obliged to notify the injured party within eight days on the dismissal or criminal report or may advise them to initiate proceedings themselves. The court shall act in the same way, even if it has taken a decision for the termination of proceedings because of waiver of prosecution.

Article 27 **Indictment**

The indictment against the defendant legal person, except for parts foreseen by the Criminal Procedure Code, shall contain the name of the defendant legal person, residence and activities of the legal person, the registration number of the legal person, name and surname of its representative, date of birth and the address of residence and citizenship, the state that issued the travel document and the number of travel document if the legal person is foreign.

Article 28 **Main trial**

1. At the main trial the defendant responsible person shall testify first and then the representative of the defendant legal person. At the hearing of the defendant legal person, the representative of the legal person who was never questioned shall not be able to participate.
2. The court may order the representative of the defendant legal person and the defendant responsible person to confront if their testimonies are not in accordance with the important facts.
3. Upon the termination of the preliminary session, after the word is given to the complainant and the injured party, the word shall be given to the defence counsel of the legal person and the representative of this person, then the word shall be given to the defence counsel of the responsible person and to the defendant responsible person.

Article 29 **The Content of the Judgment**

1. The judgment drawn up in writing, except for the parts as foreseen under Criminal Procedure Code, shall contain:
 - 1.1. in the introduction of the judgment, the name of the defendant legal person, residence and activity of the legal person, the registration number of the legal person, name and surname of its representative, date of birth and the address of residence and citizenship, the state that issued the travel document and the number of travel document if the legal person is foreign;
 - 1.2. in the enacting clause of the judgment, there should be written the name, residence and activity of the defendant legal person, registration number of the defendant legal person.

Article 30 **Partial annulment of the judgment of the first instance court**

A court of first instance may annul the judgment in the part related to defendant legal person, provided that part of the judgment may be extracted without causing any damage to the regular trial.

Article 31
Preventative Measures against legal person

1. If special circumstances justify the fear that the defendant legal person shall repeat the committal of the criminal offence or will finalize the committal of the criminal offence if it was attempted previously or shall commit the criminal offence of threat, the court shall impose the following preventative measures:
 - 1.1. prohibition of carrying out of work or certain functions;-
 - 1.2. prohibition of conducting business with state and local;
 - 1.3. prohibition of acquiring licences, authorizations, concessions and subsidies.
2. The court may impose the measure of prevention, provided for in paragraph 1., subparagraph 1.1 of this Article and if the further carrying out of work or certain functions would endanger the life, health or security of persons, property or economy. This measure may not be imposed to local bodies of self governance, political parties and trade unions.
3. If criminal proceeding were initiated against the legal person, the court may, upon the proposal of the state prosecutor or ex-officio, to prohibit statutory changes that would enable the termination of the work of defendant legal person. The prohibition shall be recorded in the court recordings or another register that is maintained by the competent state body.
4. Decision for the imposition of preventative measure shall be recorded according to ex-officio in the court records or another register that is maintained by the competent municipal body.

Article 32
Application the Criminal Procedure Code and Law on Execution of Penal Sanctions

Unless this law expressively provides otherwise, in the proceedings for the criminal liability of legal persons and the execution of penal sanctions, shall apply accordingly the provisions of Criminal Procedure Code and the provisions of the Law on Execution of Penal Sanctions.

CHAPTER V
TRANSITIONAL AND FINAL PROVISIONS

Article 33
Termination of cases

1. Economic crimes, provided for in special laws, with the entering into force of this law, shall become minor offences.
2. The proceedings for economic crimes, that were initiated until the entering into force of this law shall be conducted in the court where the proceedings have been initiated, according to the provisions based on which the charges were filed, latest until 31.12.2012.

Article 34
Repeal and Entry into Force

1. After entering into force of this law, the Law on Economic Crimes (Official Gazette of FSRFY no. 10/86.) shall be repealed.
2. This law enters into force on 1st of January 2013.

Law No. 04/L-030
31 August 2011

Promulgated by Decree No.DL-030-2011, dated 31.08.2011, President of the Republic of Kosovo Atifete Jahjaga.

**OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 16 / 14
SEPTEMBER 2011, PRISTINA**

PROCEDURAL LAWS

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Criminal laws

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

CRIMINAL PROCEDURE CODE

PART ONE GENERAL PROVISIONS

CHAPTER I FUNDAMENTAL PRINCIPLES AND DEFINITIONS

Article 1 Scope of Present Code

1. This Code determines the rules of criminal procedure mandatory for the proceedings of the courts, the state prosecutor and other participants in criminal proceedings as provided for in the present Code.
2. This Code sets forth the rules which are to guarantee that no innocent person shall be convicted, and that a punishment or any other criminal sanction shall only be imposed on a person who commits a criminal offence under the conditions provided for by the Criminal Code and other laws of Kosovo which provide for criminal offences and on the basis of a procedure conducted lawfully and fairly before the competent court.
3. The freedoms and rights of the defendant may be restricted before a final judgment has been rendered only under the conditions defined by the present Code.

Article 2 Criminal Sanctions are Imposed by Independent and Impartial Court

A criminal sanction may be imposed on a person who has committed a criminal offence only by a competent, independent and impartial court in proceedings initiated and conducted in accordance with the present Code.

Article 3 Presumption of Innocence of Defendant and *In Dubio Pro Reo*

1. Any person suspected or charged with a criminal offence shall be deemed innocent until his or her guilt has been established by a final judgment of the court.
2. Doubts regarding the existence of facts relevant to the case or doubts regarding the implementation of a certain criminal law provision shall be interpreted in favor of the defendant and his or her rights under the present Code and the Constitution of the Republic of Kosovo.

Article 4
Ne Bis in Idem

1. No one can be prosecuted and punished for a criminal offence, if he or she has been acquitted or convicted of it by a final decision of a court, if criminal proceedings against him or her were terminated by a final decision of a court or if the indictment against him or her was dismissed by a final decision of a court.
2. A final decision of a court may be reversed through extraordinary legal remedies only in favor of the convicted person, except when otherwise provided by the present Code
3. Articles 1 and 2 of the Criminal Code shall be applied *mutatis mutandis*.

Article 5
Right to Fair and Impartial Trial within a Reasonable Time

1. Any person charged with a criminal offence shall be entitled to fair criminal proceedings conducted within a reasonable time.
2. The court shall be bound to carry out proceedings without delay and to prevent any abuse of the rights of the participants in proceedings.
3. Any deprivation of liberty and in particular detention on remand in criminal proceedings shall be reduced to the shortest time possible.
4. Anyone who is deprived of liberty by arrest shall be promptly informed, in a language he or she understands, of the reasons for the deprivation of liberty. Everyone who is deprived of liberty without a court order shall be brought before a judge of the Basic Court in the jurisdiction of arrest within forty-eight (48) hours. That judge shall decide on his or her detention in accordance with Chapter X of the present code.

Article 6
Initiation of Criminal Proceedings

1. Police investigations may be initiated by a police officer pursuant to Articles 69-83 of this Code.
2. Criminal proceedings shall only be initiated upon the decision of a state prosecutor that reasonable suspicion exists that a criminal offence has been committed.
3. A state prosecutor may initiate a criminal proceeding in accordance with Paragraph 2 of this Article upon receiving information from the police, from another public institution, private institution, member of the public, media, from information obtained from another criminal proceeding, upon the filing of complaint or motion of an injured party.

Article 7
General Duty to Establish a Full and Accurate Record

1. The court, the state prosecutor and the police participating in criminal proceedings must truthfully and completely establish the facts which are important to rendering a lawful decision.

2. Subject to the provisions contained in the present Code, the court, the state prosecutor and the police participating in the criminal proceedings have a duty to examine carefully and with maximum professional devotion and to establish with equal attention the facts against the defendant as well as those in his or her favor, and to make available to the defense all the facts and pieces of evidence, which are in favor of the defendant, before the beginning of and during the proceedings.

Article 8
Principle of Judicial Independence

1. The court shall be independent in its work and shall render decisions in conformity with the law.
2. The court renders its decision on the basis of the evidence examined and verified in the main trial.

Article 9
Equality of Parties

1. The defendant and the state prosecutor shall have the status of equal parties in criminal proceedings, unless otherwise provided for by the present Code.
2. The defendant has the right and shall be allowed to make a statement on all the facts and evidence which incriminate him or her and to state all facts and evidence favorable to him or her. He or she has the right to request the state prosecutor to summon witnesses on his or her behalf. He or she has the right to examine or to have examined witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her.
3. The injured party has the right and shall be allowed to make a statement on all the facts and evidence that affects his or her rights, and to make a statement on all the facts and evidence. He or she has the right to examine witnesses, cross-examine witness and to request the state prosecutor to summon witnesses.
4. If the state prosecutor determines that during the investigation were collected sufficient evidence to proceed to the main trial, the state prosecutor shall draft the indictment and shall present the facts on which he or she bases the indictment and shall provide evidence of these facts.

Article 10
Notification on the Reasons for the Charges, Prohibition against Self-incrimination and Prohibition against Forced Confession

1. At his or her arrest and during the first examination the defendant shall be promptly informed, in a language that he or she understands and in detail, of the nature of and reasons for the charge against him or her.
2. The defendant shall not be obliged to plead his or her case or to answer any questions and, if he or she pleads his or her case, he or she shall not be obliged to incriminate himself or herself or his or her next of kin nor to confess guilt. This

right is not implicated when a defendant has voluntarily entered into an agreement to cooperate with the state prosecutor.

3. Forcing a confession or any other statement by the use of torture, force, threat or under the influence of drugs, or in any other similar way from the defendant or from any other participant in the proceedings shall be prohibited and punishable.

Article 11 **Adequacy of Defence**

1. The defendant shall have the right to have adequate time and facilities for the preparation of his or her defence.
2. The defendant shall have the right to defend himself or herself in person or through legal assistance by a member of the Kosovo Chamber of Advocates of his or her own choice.
3. Subject to the provisions of the present Code, if the defendant does not engage a defence counsel in order to provide for his or her defence and if defence is mandatory, an independent defence counsel having the experience and competence commensurate with the nature of the offence shall be appointed for the defendant.
4. Under the conditions provided by the present Code, if the defendant has insufficient means to pay for legal assistance and for this reason cannot engage a defence counsel, an independent defence counsel having the experience and competence commensurate with the nature of the offence shall be appointed for the defendant on his or her request and paid from budgetary resources if required by the interests of justice.
5. At the first examination the court or other competent authority conducting criminal proceedings shall inform the defendant of his or her right to a defence counsel, as provided for by the present Code.
6. In accordance with the provisions of the present Code, any person deprived of liberty shall have the right to the services of a defense counsel from the moment of arrest onwards.

Article 12 **Legality of Deprivation of Liberty and Speedily Decision**

1. No one shall be deprived of his or her liberty, save in such cases and in accordance with such proceedings as are prescribed by the law.
2. Any person deprived of his or her liberty by arrest or detention shall be entitled under the procedures provided by the present Code to take proceedings by which the lawfulness of his or her arrest or detention shall be decided speedily by a court and his or her release ordered if the detention is not lawful.

Article 13 **Rights of Persons Deprived of Liberty**

1. Any person deprived of liberty shall be informed promptly, in a language which he or she understands, of:

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- 1.1. the reasons for his or her arrest;
- 1.2. the right to legal assistance of his or her own choice; and
- 1.3. the right to notify or to have notified a family member or another appropriate person of his or her choice about the arrest.
2. A person deprived of liberty under the suspicion of having committed a criminal offence shall be brought before a judge promptly and at the latest within forty eight (48) hours of the arrest and shall be entitled to a trial within a reasonable time or to release pending trial.
3. A person deprived of liberty enjoys the rights provided for in the present Article throughout the time of the deprivation of liberty. These rights can only be waived if waiver is made in writing after having been informed about his or her rights and voluntary manner. The exercise of these rights depends neither on the possible previous decision of the person to waive certain rights, nor on the time when he or she was notified about these rights.

Article 14 Languages and Writing

1. The languages and scripts which may be used in criminal proceedings shall be Albanian and Serbian, unless otherwise provided by law.
2. Any person participating in criminal proceedings who does not speak the language of the proceedings shall have the right to speak his or her own language and the right to be informed through interpretation, free of charge, of the evidence, the facts and the proceedings. Interpretation shall be provided by an independent interpreter.
3. A person referred to in paragraph 2 of the present Article shall be informed of his or her right to interpretation. He or she may waive this right if he or she knows the language in which the proceedings are conducted. The notification on this right and the statement of the participant shall be entered in the record.
4. Pleadings, appeals and other submissions may be served on the court in Albanian or Serbian, unless otherwise provided by law.
5. An arrested person, a defendant who is in detention on remand and a person serving a sentence shall be provided a translation of the summonses, decisions and submissions in the language which he or she uses in the proceedings.
6. A foreign national in detention on remand may serve on the court submissions in his or her language before, during and after the main trial only under the conditions of reciprocity.

Article 15 Right of Rehabilitation and Compensation

Any person who is unlawfully convicted, arrested, detained or held in detention on remand shall be entitled to full rehabilitation, just compensation from budgetary resources and other rights provided for by law.

Article 16
Duty of Court to Inform Parties

The court shall have a duty to inform the defendant or any other participant in the proceedings of the rights to which that person is entitled according to the present Code as well as of the consequences of a failure to act, if that person might omit an action in the proceedings owing to ignorance or does not exercise his or her rights for the same reason.

Article 17
Timing of Consequences that Limit Rights

When it is provided that the initiation of criminal proceedings has the consequence of limiting certain rights, and the criminal proceedings are for a criminal offence punishable by more than three (3) years, such consequence shall take effect, if it is not determined otherwise by law, upon the entry into force of the indictment. If the criminal proceeding is for a criminal offence punishable by a fine or imprisonment of no more than three (3) years, the consequence shall take effect from the day when the rendered judgment of conviction becomes final, unless otherwise provided by law.

Article 18
Court that Conducts Criminal Proceeding may Decide Collateral Issues

1. If the application of criminal law depends on a prior ruling by a court or another public entity in another ongoing proceeding, the court which is adjudicating on the criminal case may render a ruling on such question by itself in accordance with the provisions applicable to evidence in criminal proceedings. Such ruling shall only apply to the criminal case which is being tried by this court.
2. If a court in some other type of proceeding or another public entity has already rendered a decision on a prior question of this nature, such decision shall not be binding on the court adjudicating on the criminal case in deciding whether a criminal offence has been committed.

Article 19
Definitions

1. Terms used in this Criminal Procedure Code shall have the following meanings:
 - 1.1. **Authorized Police Officer** - a police officer or any member of the Kosovo Police or other service authorized to conduct a criminal investigation who is authorized to execute an order of the state prosecutor or the court.
 - 1.2. **Complex Crime** - any criminal offence that includes but is not limited to those involving more than ten defendants, organized criminal activity, corruption, or the investigation of which would require extensive forensic evidence, accounting analysis, or international cooperation. A complex case would be a criminal proceeding that is investigating or adjudicating a complex case.

- 1.3. **Suspect** - a person whom the police or state prosecutor suspects committed a criminal offence, but against whom an investigation has not been initiated.
- 1.4. **Defendant** - a person against whom criminal proceedings are conducted. The term “defendant” is also used in the present code as a general term for a “defendant,” “accused” and “convicted person.”
- 1.5. **Accused** - a person against whom an indictment has been submitted and the main trial scheduled.
- 1.6. **Convicted Person** - A person who is found guilty of the commission of a criminal offence by a final judgment of a court.
- 1.7. **Injured party or victim** – a person whose personal or property rights are violated or endangered by a criminal offence.
- 1.8. **Reasonable Suspicion** - knowledge of information which would satisfy an objective observer that a criminal offence has occurred, is occurring or there is a substantial likelihood that one will occur and the person concerned may or may have committed the offence. What may be regarded as 'reasonable' will depend on all the circumstances.
- 1.9. **Grounded Suspicion** - knowledge of information which would satisfy an objective observer that a criminal offence has occurred, is occurring or there is a substantial likelihood that one will occur and the person concerned is more likely than not to have committed the offence. Grounded suspicion must be based upon articulable evidence.
- 1.10. **Grounded Cause** - knowledge of information which would satisfy an objective observer that a criminal offence has occurred, is occurring or there is a substantial likelihood that one will occur and the person concerned is substantially likely to have committed the offence. Grounded cause must be based upon articulable evidence.
- 1.11. **Sound Probability** – the basis for an order to search or otherwise justify a government intrusion into a person's privacy. Possession of admissible evidence which would satisfy an objective observer that a criminal offence has occurred is occurring or there is a substantial likelihood that one will occur and the person concerned is substantially likely to have committed the offence.
- 1.12. **Well Grounded Suspicion** – means filing an indictment. Possession of admissible evidence that would satisfy an objective observer that a criminal offence has occurred and the defendant has committed the offence.
- 1.13. **Restitution** – the repayment of damages by a convicted person. At the end of a criminal proceeding, the Court shall order a defendant found guilty of a criminal offence to repay the injured party or parties for any damages that directly or indirectly result from a criminal offence.
- 1.14. **Damages** - harm that directly or indirectly result from a criminal action, including loss of property, loss of profits, loss of liberty, physical harm, psychological harm, or the loss of life of a spouse or member of an immediate family member. The amount of damages shall be proven by the representative of the injured party, the victim advocate or the state prosecutor. A court may order the payment of damages based on a reasonable estimate of the monetary value of the harm directly or indirectly caused by a criminal offence.

- 1.15. **Party to the Proceedings** - the state prosecutor, the defendant and injured party. The defendant is not considered a party according to Article 392 of the Criminal Code of Kosovo.
- 1.16. **Child** - in accordance with the Juvenile Justice Code, a person who is under the age of eighteen (18) years.
- 1.17. **Minor** - in accordance with the Juvenile Justice Code, a person who is between the ages of fourteen (14) and eighteen (18) years.
- 1.18. **Public Entity** - an entity of the government of the Republic of Kosovo or an entity equally authorized to act under the Law on Police or Law on Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo, or any subsequent laws.
- 1.19. **Intimate Search** - a search which consists of the physical examination of a person's bodily orifices other than the mouth.
- 1.20. **Competent Judge** - the judge who, under this code, has responsibility for the matter in question. In most circumstances, this will be the judge overseeing the stage of the criminal proceedings.
- 1.21. **Review Panel** – a panel of three-judges drawn from the same department or basic court to review and adjudicate an objection from an order of the pre-trial judge.
- 1.22. **Trial Panel** – a panel of a presiding trial judge and two (2) professional judges who hear the evidence and adjudicate during the main trial.
- 1.23. **Pre-Trial Judge** – a judge assigned to the investigative stage.
- 1.24. **Presiding Trial Judge** – a judge in the serious crimes department of the basic court who receives the indictment, rules on all preliminary and evidentiary motions at the initial and second hearings, and presides over the trial panel that adjudicates the main trial.
- 1.25. **Single Trial Judge** - a judge in the general department of the basic court who receives the indictment, rules on all preliminary and evidentiary motions at the initial and second hearings, and presides over and adjudicates the main trial.
- 1.26. **Victim Compensation Fund** - a fund to which forfeited bail and other authorized assets under the law is deposited. Payments from the victim compensation fund shall be used to compensate crime victims as authorized under the law.
- 1.27. **Summary, transcript, recording** – three (3) types of record. A summary is an accurate description of what a person said. A transcript is a verbatim record of what a person said. A recording is either an audio- or video-recording through electronic means which is capable of repeating the exact words that a person said.
- 1.28. **Lead Counsel** – when a party is represented by more than one attorney, one and only one attorney shall represent the party before the court or during criminal proceedings. Service upon the lead counsel of documents, including indictments, requests, replies, appeals and the documents required to be disclosed to defendants shall constitute service upon all attorneys representing the party.
- 1.29. **Intrinsically Unreliable** – evidence or information is intrinsically

unreliable if the origin of the evidence or information is unknown, it is based upon a rumor, or on its face the evidence or information is impossible or inconceivable.

- 1.30. **Articulate** - when information or evidence must be articulable, the party offering the information or evidence must specify in detail the information or evidence being relied upon.
- 1.31. **Notice of Corroboration**— a document filed by a party in support of testimony or evidence that is not directly obtainable at the main trial. The notice of corroboration would list other admissible evidence that corroborates the testimony or evidence in question. A notice of corroboration is intended to show that the evidence in question would not be the sole or decisive evidence supporting a judgment that the defendant is guilty.
- 1.32. **Police or Police Officer** - any member of the Kosovo Police or other service authorized to conduct criminal investigations.

CHAPTER II JURISDICTION OF COURTS

1. SUBJECT MATTER JURISDICTION AND THE COMPOSITION OF THE COURT

Article 20 Jurisdiction of Courts

1. The subject matter and geographic jurisdiction of the Basic Court for criminal proceedings is determined in Article 11 of the Law on Courts, Law No. 03/L-199, or subsequent law.
2. The subject matter of the Court of Appeals for criminal proceedings is determined in Article 18 of the Law on Courts, Law No. 03/L-199.
3. The subject matter of the Supreme Court for criminal proceedings is determined in Article 22 of the Law on Courts, Law No. 03/L-199, or subsequent law.
4. The subject matter and procedure of the Constitutional Court for criminal proceedings under Article 113, Paragraph 7 of the Constitution is determined in Articles 46-50 of the Law on the Constitutional Court of the Republic of Kosovo, Law No. 03/L-121, or subsequent law.

Article 21 Allocation of Cases within Courts

1. Criminal proceedings shall conduct and adjudicate the case in the first instance in the General Department, Serious Crimes Department or any Division or Department established under Article 8 of the Law on Courts which has jurisdiction over criminal offences.
2. When a child is a defendant in a criminal case, that case shall be severed from any other case and heard exclusively by the Department for Minors within the Basic Court, governed by the Juvenile Justice Code, No. 03/L-193 or successor law.

3. The General Department of the Basic Court shall conduct and adjudicate the case to all criminal proceedings that are not within the jurisdiction of the Serious Crimes Department, the Department for Minors, or any Division or Department established under Article 8 of the Law on Courts which has jurisdiction over criminal offences.
4. The Serious Crimes Department shall conduct and adjudicate the case any criminal proceeding where one or more of the potential criminal offences under Article 15 of the Law on Courts in general, and specifically those criminal offences listed in Article 22, have been alleged or charged by the State Prosecutor.
5. The judgment of the Basic Court may not be appealed on procedural grounds if the appellant has not challenged in basic court the legal or factual decision upon which the appeal is based, unless the appellant can demonstrate extraordinary circumstances that justify such an appeal.

Article 22

Offences Considered as Serious Crimes for the Purpose of this Code

1. For the purpose of this code, the following Articles of the criminal code shall be considered Serious Crimes in accordance with Article 15 of the Law on Courts, Law No. 03/L-199:
 - 1.1. Assault on Constitutional Order of the Republic of Kosovo, in accordance with Article 121 of the Criminal Code,
 - 1.2. Armed Rebellion, in accordance with Article 122 of the Criminal Code,
 - 1.3. Acceptance of Capitulation and Occupation, in accordance with Article 123 of the Criminal Code,
 - 1.4. Treason Against State, in accordance with Article 124 of the Criminal Code,
 - 1.5. Endangering the Territorial Integrity of the Republic of Kosovo, in accordance with Article 125 of the Criminal Code,
 - 1.6. Murder of High Representatives of the Republic of Kosovo, in accordance with Article 126 of the Criminal Code,
 - 1.7. Abduction of the High Representatives of the Republic of Kosovo, in accordance with Article 127 of the Criminal Code,
 - 1.8. Violence Against the High Representatives of the Republic of Kosovo, in accordance with Article 128 of the Criminal Code,
 - 1.9. Endangering the Constitutional Order by Destroying or Damaging Public Installations And Facilities, in accordance with Article 129 of the Criminal Code,
 - 1.10. Sabotage, in accordance with Article 130 of the Criminal Code,
 - 1.11. Espionage, in accordance with Article 131 of the Criminal Code,
 - 1.12. Disclosure of Classified Information and Failure to Protect Classified Information, in accordance with Article 132 of the Criminal Code,
 - 1.13. Aggravated Offenses against the Constitutional Order or Security of The Republic of Kosovo, in accordance with Article 133 of the Criminal Code,
 - 1.14. Alliance for Anti-Constitutional Actions, in accordance with Article 134 of the Criminal Code,
 - 1.15. Commission of the Offense of Terrorism, in accordance with Article 136 of the Criminal Code,

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- 1.16. Assistance in the Commission of Terrorism, in accordance with Article 137 of the Criminal Code,
- 1.17. Facilitation of The Commission of Terrorism, in accordance with Article 138 of the Criminal Code,
- 1.18. Recruitment for Terrorism, in accordance with Article 139 of the Criminal Code,
- 1.19. Training for Terrorism, in accordance with Article 140 of the Criminal Code,
- 1.20. Incitement to Commit a Terrorist Offense, in accordance with Article 141 of the Criminal Code,
- 1.21. Concealment or Failure to Report Terrorists and Terrorist Groups, in accordance with Article 142 of the Criminal Code,
- 1.22. Organization and Participation in a Terrorist Group, in accordance with Article 143 of the Criminal Code,
- 1.23. Preparation of Terrorist Offenses or Criminal Offenses against the Constitutional Order and Security of the Republic of Kosovo, in accordance with Article 144 of the Criminal Code,
- 1.24. Genocide, in accordance with Article 148 of the Criminal Code,
- 1.25. Crimes against Humanity, in accordance with Article 149 of the Criminal Code,
- 1.26. War Crimes in Grave Violation of the Geneva Conventions, in accordance with Article 150 of the Criminal Code,
- 1.27. War Crimes in Serious Violation of Laws and Customs Applicable in International Armed Conflict, in accordance with Article 151 of the Criminal Code,
- 1.28. War Crimes in Serious Violation of Article 3 Common to the Geneva Conventions, in accordance with Article 152 of the Criminal Code,
- 1.29. War Crimes in Serious Violation of Laws and Customs Applicable in Armed Conflict not of an International Character, in accordance with Article 153 of the Criminal Code,
- 1.30. Attacks in Armed Conflicts not of an International Character against Installations Containing Dangerous Forces, in accordance with Article 154 of the Criminal Code,
- 1.31. Conscription or Enlisting of Persons Between the Age of Fifteen (15) and Eighteen (18) Years in Armed Conflict, in accordance with Article 155 of the Criminal Code,
- 1.32. Employment of Prohibited Means or Methods of Warfare, in accordance with Article 156 of the Criminal Code,
- 1.33. Unjustified Delay in Repatriating Prisoners of War or Civilians, in accordance with Article 157 of the Criminal Code,
- 1.34. Unlawful Appropriation of Objects from the Killed or Wounded on the Battlefield, in accordance with Article 158 of the Criminal Code,
- 1.35. Endangering Negotiators, in accordance with Article 159 of the Criminal Code,
- 1.36. Organization of Groups to Commit Genocide, Crimes Against Humanity and War Crimes, in accordance with Article 160 of the Criminal Code,

- 1.37. Instigating War of Aggression or Armed Conflict, in accordance with Article 162 of the Criminal Code,
- 1.38. Misuse of International Emblems, in accordance with Article 163 of the Criminal Code,
- 1.39. Hijacking Aircraft, in accordance with Article 164 of the Criminal Code,
- 1.40. Endangering Civil Aviation Safety, in accordance with Article 165 of the Criminal Code,
- 1.41. Endangering Maritime Navigation Safety, in accordance with Article 166 of the Criminal Code,
- 1.42. Endangering the Safety of Fixed Platforms Located on the Continental Shelf, in accordance with Article 167 of the Criminal Code,
- 1.43. Piracy, in accordance with Article 168 of the Criminal Code,
- 1.44. Slavery, Slavery-Like Conditions and Forced Labor, in accordance with Article 169 of the Criminal Code,
- 1.45. Smuggling of Migrants, in accordance with Article 170 of the Criminal Code,
- 1.46. Trafficking in Persons, in accordance with Article 171 of the Criminal Code,
- 1.47. Sexual Services of a Victim of Trafficking, in accordance with Article 231 of the Criminal Code,
- 1.48. Endangering Internationally Protected Persons, in accordance with Article 173 of the Criminal Code,
- 1.49. Endangering United Nations and Associated Personnel, in accordance with Article 174 of the Criminal Code,
- 1.50. Hostage-Taking, in accordance with Article 175 of the Criminal Code,
- 1.51. Unlawful Appropriation, Use, Transfer and Disposal of Nuclear Material, in accordance with Article 176 of the Criminal Code,
- 1.52. Threats to Use or Commit Theft or Robbery of Nuclear Material, in accordance with Article 177 of the Criminal Code,
- 1.53. Aggravated Murder, in accordance with Article 179 of the Criminal Code,
- 1.54. Kidnapping, in accordance with Article 194 of the Criminal Code,
- 1.55. Torture, in accordance with Article 199 of the Criminal Code,
- 1.56. Violation of the Right to be a Candidate, in accordance with Article 210 of the Criminal Code,
- 1.57. Threat to the Candidate, in accordance with Article 211 of the Criminal Code,
- 1.58. Preventing Exercise of the Right to Vote, in accordance with Article 212 of the Criminal Code,
- 1.59. Violating the Free Decision of Voters, in accordance with Article 213 of the Criminal Code,
- 1.60. Abuse of Official Duty During Elections, in accordance with Article 214 of the Criminal Code,
- 1.61. Giving or Receiving a Bribe in Relation to Voting, in accordance with Article 215 of the Criminal Code,
- 1.62. Abusing the Right to Vote, in accordance with Article 216 of the Criminal Code,

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- 1.63. Obstructing the Voting Process, in accordance with Article 217 of the Criminal Code,
- 1.64. Violating Confidentiality in Voting, in accordance with Article 218 of the Criminal Code,
- 1.65. Falsification of Voting Results, in accordance with Article 219 of the Criminal Code,
- 1.66. Destroying Voting Documents, in accordance with Article 220 of the Criminal Code,
- 1.67. Rape, in accordance with Article 230 of the Criminal Code,
- 1.68. Unauthorized Purchase, Possession, Distribution and Sale of Narcotic Drugs, Psychotropic Substances and Analogues, in accordance with Article 273 of the Criminal Code,
- 1.69. Unauthorized Production and Processing of Narcotic Drugs, Psychotropic Substances and Analogues, in accordance with Article 274 of the Criminal Code,
- 1.70. Cultivation of Opium Poppy, Coca Bush or Cannabis Plants, in accordance with Article 278 of the Criminal Code,
- 1.71. Organizing, Managing or Financing Trafficking in Narcotic Drugs or Psychotropic Substances, in accordance with Article 279 of the Criminal Code,
- 1.72. Counterfeit Money, in accordance with Article 302 of the Criminal Code,
- 1.73. Counterfeit Securities and Payment Instruments, in accordance with Article 293 of the Criminal Code,
- 1.74. Participation in or Organization of an Organized Criminal Group, in accordance with Article 283 of the Criminal Code,
- 1.75. Illegal possession of firearms in accordance with Article 374 of the Criminal Code,
- 1.76. Intimidation during Criminal Proceedings for Organized Crime, in accordance with Article 395 of the Criminal Code,
- 1.77. Abusing Official Position or Authority, in accordance with Article 422 of the Criminal Code,
- 1.78. Misusing Official Information, in accordance with Article 423 of the Criminal Code,
- 1.79. Conflict of Interest, in accordance with Article 424 of the Criminal Code,
- 1.80. Misappropriation in Office, in accordance with Article 425 of the Criminal Code,
- 1.81. Fraud in Office, in accordance with Article 426 of the Criminal Code,
- 1.82. Unauthorized use of Property, in accordance with Article 427 of the Criminal Code,
- 1.83. Accepting Bribes, in accordance with Article 428 of the Criminal Code,
- 1.84. Giving Bribes, in accordance with Article 429 of the Criminal Code,
- 1.85. Giving Bribes to Foreign Public Official, in accordance with Article 430 of the Criminal Code,
- 1.86. Trading in Influence, in accordance with Article 431 of the Criminal Code,
- 1.87. Issuing Unlawful Judicial Decisions, in accordance with Article 432 of the Criminal Code,

- 1.88. Disclosing Official Secrets, in accordance with Article 433 of the Criminal Code,
- 1.89. Falsifying Official Document, in accordance with Article 434 of the Criminal Code,
- 1.90. Unlawful Collection and Disbursement, in accordance with Article 435 of the Criminal Code, and
- 1.91. Unlawful Appropriation of Property During a Search or Execution of a Court Decision, in accordance with Article 436 of the Criminal Code.

Article 23
The Pre-Trial Judge

1. The Basic Court shall oversee criminal investigations by assigning based on an objective and transparent case allocation system a professional judge from the appropriate department to serve as a pre-trial judge.
2. The pre-trial judge shall oversee a criminal proceeding during the investigation stage. At the filing of an indictment, the pre-trial judge no longer has authority over the defendants named in the indictment.
3. The pre-trial judge shall be competent to receive requests from the state prosecutor, defendant, victim advocate and injured party and to render decisions and orders based upon those requests, in accordance with the present Code.
4. The pre-trial judge shall be competent to independently determine the imposition or continuation of the deprivation of a defendant's liberty is procedurally or constitutionally valid. The pre-trial judge has the duty to order the release of a defendant whose deprivation of liberty is not procedurally or constitutionally valid.

Article 24
Orders and Decisions by the Pre-Trial Judge

1. A pre-trial judge in the General Department or Serious Crimes Department shall be competent to issue decisions or orders as foreseen by this present code.
2. Orders of a pre-trial judge in the General Department or Serious Crimes Department may be reviewed upon a party's objection by a review panel from the same Department of that court. If there are insufficient judges, the President of the Court may assign judges from another Department to serve on the review panel.
3. A decision by a pre-trial judge may be reviewed upon an appeal by the Court of Appeals.
4. Any order by the pre-trial judge that affects the rights of the injured party may be reviewed by the review panel of the Basic Court under paragraph 2 within forty eight (48) hours from the objection being filed. The state prosecutor, victim advocate may request the review of the pre-trial judge's order on behalf of the injured party or by the injured party himself or herself.
5. The deadline for objections to orders by a pre-trial judge or review panel is forty eight (48) hours from the receipt of the order by the party, in accordance with Article 378 of this Code.
6. The deadline for appeals to decisions by a pre-trial judge or review panel is five (5)

days from the receipt of the decision by the party, in accordance with Article 378 of this Code.

Article 25
The Single Trial Judge, Presiding Trial Judge and Trial Panel

1. Upon the filing of an indictment by the state prosecutor in the Basic Court, a single trial judge or a panel of judges with a presiding trial judge from the appropriate department shall be assigned to try the case based on an objective and transparent case allocation system.
2. For criminal proceedings within the General Department in the Basic Court, the case is decided by a professional judge serving as the single trial judge.
3. For criminal proceedings within the Serious Crimes Department in the Basic Court, the judgment is made by three (3) professional judges, one of whom shall serve as the presiding trial judge.

Article 26
Decisions prior to the Main Trial

1. Upon the filing of an indictment by the state prosecutor in the Basic Court, the single trial judge or presiding trial judge shall hold initial hearings and second hearings, rule on requests to dismiss the indictment, rule on requests to exclude evidence, and shall rule on requests for detention on remand or other measures to ensure the presence of the defendant.
2. The main trial shall be tried by a single trial judge or by the trial panel, as appropriate under this code.

Article 27
The Court for Minors

The procedure when the perpetrators are minors, or when minors are victims or witnesses shall be governed by the Juvenile Justice Code or the relevant law.

Article 28
Judicial Panels during Appeals

1. The Court of Appeals shall adjudicate criminal appeals in a panel of three (3) judges.
2. The Supreme Court shall adjudicate criminal appeals in a panel of three (3) judges.

2. TERRITORIAL JURISDICTION

Article 29
Territorial Jurisdiction

1. Territorial jurisdiction shall as a rule be vested in the basic court within whose territory any action of a criminal offence has been committed or attempted or where its consequence occurred.

2. If a criminal offence was committed or attempted or its consequence occurred in the territory of more than one court or on the border of those territories, the court which first announced proceedings in response to the petition of an authorized state prosecutor shall be competent, but if proceedings have not been initiated, the court at which the petition for initiation of proceedings is first filed shall have jurisdiction.
3. If a department of a basic court has been established by law and has national jurisdiction for the investigation and trial of specific criminal offences, the jurisdiction for all criminal proceedings for such criminal offences shall be vested in that department.

Article 30

Jurisdiction if Criminal Offence Committed on an Aircraft

If a criminal offence has been committed on an aircraft, the Basic Court in Pristina shall have jurisdiction.

Article 31

Jurisdiction if Criminal Offence Committed through the Media

1. If a criminal offence has been committed through a newspaper, the court within whose territory the newspaper is printed shall have jurisdiction. If this location is unknown or if the newspaper has been printed abroad, the court within whose territory the printed newspaper is distributed shall have jurisdiction.
2. If according to the law the author of the published material is responsible, the court within whose territory the author has a permanent residence or the court within whose territory the event to which the published material refers took place shall have jurisdiction.
3. Paragraphs 1 and 2 of the present Article shall apply *mutatis mutandis* to cases where the material was published by radio, television or any other type of publication.

Article 32

Secondary Criteria of Jurisdiction

1. If the territory described in Article 29 paragraph 1 of the present Code is unknown or if this place is not within the territory of Kosovo, the court within whose territory the defendant has a permanent or current residence shall have jurisdiction.
2. If the court within whose territory the defendant has a permanent or current residence has initiated proceedings, the court shall retain jurisdiction even after the place of the commission of the criminal offence has become known.
3. If neither the place of commission of a criminal offence nor the place of permanent or current residence of the defendant is known or if both are outside the territory of Kosovo, the court within whose territory the defendant was apprehended or has surrendered himself or herself to the authorities shall have jurisdiction.

Article 33
Jurisdiction of Transborder Criminal Offences

If a person commits criminal offences both in Kosovo and outside Kosovo, the court which has jurisdiction over the act committed in Kosovo shall have jurisdiction.

Article 34
Territorial Jurisdiction as Designated by the Supreme Court

If, according to the provisions of the present Code, it cannot be established which court has territorial jurisdiction, the Supreme Court of Kosovo shall designate one of the courts with subject matter jurisdiction to conduct proceedings.

3. JOINDER OF PROCEEDINGS

Article 35
Territorial Jurisdiction on Joint Proceedings

1. If the same person has been charged with the commission of several criminal offences of the same severity, the court at which the indictment has first been filed shall have jurisdiction, and, if no indictment has been filed, the court to which a stamped copy of the ruling on the investigation has been sent first shall have jurisdiction.
2. Joint proceedings shall also be conducted in a case in which the injured party has at the same time committed a criminal offence against the defendant.
3. As a rule, co-defendants shall be subject to the jurisdiction of the court which has jurisdiction for one of them and at which an indictment has first been filed.
4. The court which has competence over the perpetrator of the criminal offence shall, as a rule, also have competence over the accomplices and accessories after the fact and persons who failed to report the preparation of the act, the commission of the act or the perpetrator.
5. All cases referred to in paragraphs 1 through 4 of the present Article shall as a rule be considered in joint proceedings and a single judgment shall be rendered.
6. The court may decide to conduct joint proceedings and to render a single judgment when several individuals have been charged with several criminal offences, provided that the acts are interconnected and the evidence is common.
7. The court may decide to conduct joint proceedings and to render a single judgment if separate proceedings are conducted before the same court against the same person for several acts or against several persons for the same act.
8. A joinder of proceedings shall be decided by the court which is competent to conduct the joint proceedings upon the motion of the public prosecutor or *ex officio*. No appeal shall be permitted against a ruling joining the proceedings or rejecting a motion for a joinder.

Article 36
Severance of Proceedings

1. Until the conclusion of the main trial, the court which has jurisdiction under the present Code may, for important reasons or for reasons of efficiency, order the severance of proceedings conducted for several criminal offences or conducted against several defendants and thereupon proceed separately or refer separate cases to another competent court.
2. A ruling on the severance of proceedings shall be rendered by the competent court after hearing the parties and the defense counsel.
3. No appeal shall be permitted against a ruling severing proceedings or rejecting a motion for severance.

4. TRANSFER OF TERRITORIAL JURISDICTION

Article 37
Delegated Competence and Conflict of Competence

1. A Basic Court is bound to examine its jurisdiction and, as soon as it determines a lack thereof, it shall declare itself without jurisdiction and, after the decision becomes final, it shall refer the case to the court which has jurisdiction.
2. If a competent Basic Court is prevented from conducting proceedings for legal or factual reasons after hearing the parties, the President of the Basic Court may transfer the proceedings to another Branch within the competent Basic Court.
3. If the transfer within Paragraph 2 of this Article is not feasible the President of the competent Basic Court must consult with another Basic Court with subject matter jurisdiction and agree to transfer the proceedings.
4. If the two (2) Basic Courts cannot satisfy Paragraph 3 of this Article within ten (10) days, either Basic Court shall notify the Court of Appeals thereof, which shall designate one of the courts to conduct the proceedings.
5. Before rendering a ruling in a jurisdictional conflict, the court shall ask the opinion of the state prosecutor who is competent to act before that court, the injured party or victim advocate, and of either the defendant or the defense counsel.
6. No appeal shall be permitted against an order under the present Article.

5. CONSEQUENCES OF LACK OF JURISDICTION

Article 38
Implicit Jurisdiction of Courts

1. A court which lacks jurisdiction shall conduct such procedural actions with respect to which there is danger in delay.
2. After the indictment becomes final, the court may not declare that it does not have territorial jurisdiction, nor may the parties raise the objection of lack of territorial jurisdiction.

CHAPTER III DISQUALIFICATION

1. DISQUALIFICATION OF JUDGES

Article 39

Bases for Disqualification of Judges

1. A judge shall be excluded from the exercise of the judicial functions in a particular case:
 - 1.1. if he or she has been injured by the criminal offence;
 - 1.2. if he or she is the spouse, the extramarital partner, a relation by blood in a direct line to any degree or in a collateral line to the fourth degree or a relation by marriage to the second degree to the defendant, the defense counsel, the state prosecutor, the injured party, or his or her legal representative or authorized representative;
 - 1.3. if he or she is a legal guardian, ward, adopted child, adoptive parent, foster parent or foster child of the defendant, the defense counsel, the state prosecutor or the injured party;
 - 1.4. if, in the same criminal case, he or she has taken part in the proceedings as a prosecutor, a defense counsel, a legal representative or authorized representative of the injured party or prosecutor or if he or she has been examined as a witness or as an expert witness;
 - 1.5. there exists a conflict of interest as defined by Article 6 of the Law on Prevention of Conflict of Interests in Discharge of Public Functions.
2. A judge shall be excluded as the single trial judge, presiding trial judge, a member of the trial panel, a member of the appellate panel or Supreme Court panel if he or she has participated in previous proceedings in the same criminal case, except for a judge serving on a special investigative opportunity panel. However, a judge shall not be excluded where he or she has only been involved in previous proceedings in the same criminal case as a member of a review panel.
3. A judge may also be excluded from the exercise of judicial functions in a particular case if, apart from the cases referred to in paragraphs 1 and 2 of the present Article, circumstances that render his or her impartiality doubtful or created the appearance of impropriety are presented and established.

Article 40

Procedure for Disqualification

1. As soon as he or she discovers a ground for disqualification under Article 39 paragraph 1 or 2 of the present Code, a judge shall discontinue all the activity on the case and report such ground to the president of the court who, in accordance with the procedures governing the internal court rules, shall appoint a substitute. In the case of disqualification of a President of a court, he or she shall ask the President of the Court of Appeals to appoint a substitute.
2. If a judge considers that there are other circumstances which would justify his or

her disqualification under Article 39, paragraph 3, of the present Code, he or she shall inform the president of the court about such circumstances. Until a decision on disqualification is rendered, the judge may only conduct actions that are absolutely necessary to prevent postponement or impermissible delay of the case.

Article 41 **Requests for Disqualification**

1. The disqualification of a judge may also be requested by the parties.
2. A party may be bound to request disqualification of a judge as soon as he or she learns of the existence of grounds for disqualification and no later than before the conclusion of the main trial and, in the case of disqualification on the grounds set forth in Article 39 paragraph 3 of the present Code, before the commencement of the main trial.
3. A party may address a petition for the disqualification of a judge of the Court of Appeal or Supreme Court in an appeal or in response to an appeal.
4. A party may seek disqualification only of a judge who acts in a case.
5. The party shall be bound to state in the petition the circumstances supporting his or her allegation that there are legal grounds for disqualification. Reasons presented in a previous petition for disqualification which have been rejected may not be cited again in a petition.

Article 42 **Decisions on Requests for Disqualification**

1. Requests for disqualifications under Article 41 of this Code shall be decided by the following judges:
 - 1.1. The President Judge of the Basic Court shall decide on a petition for disqualification of judges in the Basic Court.
 - 1.2. The President Judge of the Court of Appeals shall decide on a petition for disqualification of the President Judge of the Basic Court alone or a petition for disqualification of the President Judge of the Basic Court and another judge of the same court.
 - 1.3. The President Judge of the Court of Appeals shall decide on a petition for disqualification of a judge on the Court of Appeals.
 - 1.4. The President of the Supreme Court of Kosovo shall decide on a petition for the disqualification of the President Judge of the Court of Appeals, a petition for disqualification of the President Judge of the Court of Appeals and another judge of the same court, or a petition for the disqualification of a judge of the Supreme Court of Kosovo. A Panel chaired by the deputy president of the Supreme Court of Kosovo shall decide on any petition for the disqualification of the president of the Supreme Court of Kosovo or a petition for the disqualification of the president of the Supreme Court of Kosovo and other judges of the same court.
2. Before rendering a ruling on disqualification, the judge or the president of the court shall be heard and further inquiries shall be carried out if necessary.

3. No appeal shall be permitted against a ruling which accepts a petition for disqualification. A ruling rejecting a petition for disqualification may be contested by a separate appeal, but if this ruling was rendered after the indictment was brought, then only by an appeal against the judgment.
4. If a petition for disqualification is in breach of the provisions of Article 41 paragraphs 4 and 5 of the present Code, or if the petition for disqualification under Article 39 paragraph 3 of the present Code is filed after the commencement of the main trial, the petition shall be dismissed entirely or partially. No appeal shall be permitted against a ruling, by which the petition is dismissed. The ruling to dismiss the petition shall be rendered by the president of the court or by the trial panel in the main trial. The judge whose disqualification is being sought may participate in rendering such ruling by a trial panel.

Article 43

Ceasing all Actions following the Request for the Disqualification of a Judge

When a judge learns that a petition has been filed for his or her disqualification, he or she must immediately cease all work on the case, but if it concerns disqualification under Article 39 paragraph 3 of the present Code, he or she may, until the ruling is rendered on the petition, conduct only those actions with respect to which there is danger in delay.

2. DISQUALIFICATION OF STATE PROSECUTORS

Article 44

Bases for Disqualification of State Prosecutors

1. A state prosecutor shall be disqualified:
 - 1.1. if he or she has been injured by the criminal offence;
 - 1.2. if he or she is the spouse, the extramarital partner, a relation by blood in a direct line to any degree or in a collateral line to the fourth degree or a relation by marriage to the second degree to the defendant, the defense counsel, the injured party, or his or her legal representative or authorized representative;
 - 1.3. if he or she is a legal guardian, ward, adopted child, adoptive parent, foster parent or foster child of the defendant, the defense counsel or the injured party;
 - 1.4. if, in the same criminal case, he or she has taken part in the proceedings as a judge, a defense counsel, a legal representative or authorized representative of the injured party or if he or she has been examined as a witness or as an expert witness; or
 - 1.5. a conflict of interest exists as defined in Article 6 of the Law on Preventing Conflict of Interest in Exercising Public Functions.
2. The state prosecutor has the continuing duty to disqualify himself or herself upon his or her discovery of grounds for disqualification.
3. If the state prosecutor objects to his or her disqualification, he or she shall seek the

decision of a superior state prosecutor. The chief prosecutor of an office shall decide upon the disqualification of a state prosecutor under this paragraph. The Chief State Prosecutor shall decide on the disqualification of the chief prosecutor of an office under this paragraph. Any decision under this Paragraph shall be in writing and provided to the state prosecutor in question and the Kosovo Prosecutorial Council. The Kosovo Prosecutorial Council shall decide on the disqualification of the Chief State Prosecutor in a plenary session.

3. DISQUALIFICATION OF OTHER PARTICIPANTS

Article 45

Bases for Disqualification of Other Participants in Criminal Proceedings

1. A presiding trial judge, single trial judge, pre-trial judge or presiding judge of a review panel or appeal panel shall decide on the disqualification of a recording clerk, interpreter, specialist, expert witness and victim advocate.
2. When an authorized police officer conducts investigative actions on the basis of the present Code, the state prosecutor shall decide on his or her disqualification. If a recording clerk participates in conducting such actions, the official who conducts the action shall decide on his or her disqualification.
3. A victim advocate shall be disqualified:
 - 3.1. if he or she has been injured by the criminal offence;
 - 3.2. if he or she is the spouse, the extramarital partner, a relation by blood in a direct line to any degree or in a collateral line to the fourth degree or a relation by marriage to the second degree to the defendant, the defense counsel, the state prosecutor, the injured party, or his or her legal representative or authorized representative;
 - 3.3. if he or she is a legal guardian, ward, adopted child, adoptive parent, foster parent or foster child of the defendant, the defense counsel, the prosecutor or the injured party;
 - 3.4. if, in the same criminal case, he or she has taken part in the proceedings as a judge, a prosecutor, a defense counsel, or if he or she has been examined as a witness or as an expert witness; or
 - 3.5. there exist circumstances that create the appearance of a conflict of interest.

CHAPTER IV THE STATE PROSECUTOR

Article 46

Jurisdiction and Structure of State Prosecutors

The jurisdiction and structure of the Basic Prosecution Offices, Special Prosecution Office, Appellate Prosecution Office and the Office of the Chief State Prosecutor to investigate and prosecute criminal cases is determined in Chapter IV of the Law on State Prosecutor, or any successor law.

Article 47
Independence of State Prosecutors

Public entities shall not formally or informally influence or direct the actions of the state prosecutor when dealing with individual criminal cases or investigations.

Article 48
Duty of State Prosecutors towards Defendant

The state prosecutor has a duty to consider inculpatory as well as exculpatory evidence and facts during the investigation of criminal offences and to ensure that the investigation is carried out with full respect for the rights of the defendant and that evidence is not collected in breach of Chapter XVI of the present Code.

Article 49
Duties and Competencies of State Prosecutors

1. The basic duties and competencies of the state prosecutor are described in Article 7 of the Law on State Prosecutor. In addition to those basic duties and competencies the state prosecutor shall have the following duties and competencies:
 - 1.1. the state prosecutors are empowered to represent the public interest before the Courts of the Republic of Kosovo and to request the Courts to order measures in accordance with the present Code of Criminal Procedure.
 - 1.2. with respect to criminal offences which are prosecuted *ex officio* or on the motion of an injured party, the state prosecutor shall have the power to negotiate and accept a voluntary agreement with the defendant to cooperate or plead guilty.

Article 50
Jurisdiction of State Prosecutors

The state prosecutor shall have jurisdiction to act before the appropriate court in accordance with the Law on the State Prosecutor.

Article 51
Jurisdiction of State Prosecutors in Urgent Matters

Where there is danger in delay, procedural actions may also be undertaken by a state prosecutor who does not have jurisdiction, subject to his or her immediate notification of the competent state prosecutor.

Article 52
Withdrawal from Prosecution

The state prosecutor may withdraw from prosecution up until the conclusion of the main trial before a Basic Court and, in proceedings before a court of higher instance, he or she may withdraw from prosecution only in cases provided for by the present Code.

CHAPTER V DEFENSE COUNSEL

Article 53 Defendant's Right to Defense Counsel

1. The suspect and the defendant have the right to be assisted by a defense counsel during all stages of the criminal proceedings.
2. Before every examination of the suspect or the defendant, the police or other competent authority, the state prosecutor, the pre-trial judge, the single trial judge or the presiding trial judge shall instruct the suspect or the defendant that he or she has the right to engage a defense counsel and that a defense counsel can be present during the examination.
3. The right to the assistance of a defense counsel may be waived, except in cases of mandatory defense, if such waiver is made following clear and complete information on his right to defense being provided. A waiver must be in writing and signed by the suspect or the defendant and the witnessing competent authority conducting the proceedings, or made orally on video- or audio-tape, which is determined to be authentic by the court.
4. The right to the assistance of a defence counsel may be waived in cases of mandatory defense, in accordance with Paragraph 3 of this Article, if a defence counsel is retained to act as a "standby attorney" with the responsibility to advise the defendant during the proceeding and, if the defendant withdraws his or her waiver, the standby attorney shall become the defence counsel.
5. Persons under the age of eighteen (18) may waive the right to the assistance of defense counsel with the consent of a parent, guardian or a representative of the Center for Social Work, except that in cases of domestic violence involving the parent or guardian, such parent or guardian may not consent to the waiver of such right.
6. Persons who display signs of mental disorder or disability may not waive their right to the assistance of defense counsel.
7. If a suspect or defendant who has made a waiver subsequently reasserts the right to the assistance of defense counsel, he or she may immediately exercise the right.
8. If the suspect or the defendant does not engage a defense counsel on his or her own, his or her legal representative, spouse, extramarital partner, blood relation in a direct line, adoptive parent, adopted child, brother, sister or foster parent may engage defense counsel for him or her, but not against his or her will.

Article 54 Qualification as Defense Counsel

1. Only a member of the Chamber of Advocates of Kosovo may be engaged as defense counsel, but an attorney in training may replace the member of the Chamber of Advocates. If proceedings are being conducted for a criminal offence punishable by imprisonment of at least five years, an attorney in training may replace a member of the bar only if he or she has passed the judicial examination.

Only a member of the bar can represent a defendant before the Court of Appeals or Supreme Court of Kosovo.

2. The defense counsel shall submit his or her power of attorney to the police, state prosecutor or the court before which proceedings are being conducted. The suspect and the defendant may give the defense counsel a verbal power of attorney, which shall be entered in the record of the police, state prosecutor or the court before which proceedings are being conducted.

Article 55

Limits of Representation by Defense Counsel

1. In criminal proceedings a defense counsel is not allowed to represent two or more defendants in the same case. A defence counsel may not represent a legal person and a natural person in the same case, unless the natural person is the only person who owns, manages and is employed by the legal person.
2. A defendant may have up to three (3) defense counsel, and it shall be considered that the right to defense shall be considered satisfied if one of the defense counsel is participating in the proceedings.
3. If a defendant has more than one defense counsel, one defense counsel shall be nominated the lead counsel by the defendant or, if the defendant fails to do so, the competent judge shall appoint the lead counsel.

Article 56

Disqualification of Defense Counsel

1. The defense counsel may not be the injured party, the spouse or extramarital partner of the injured party or their relation by blood in a direct line to any degree or in a lateral line to the fourth degree or by marriage to the second degree.
2. Any person who has been summoned to the main trial as a witness may not be a defense counsel unless under the present Code he or she has been relieved of the duty to testify as a witness and has declared that he or she will not testify as a witness or unless defense counsel has been examined as a witness in a case under Article 126 paragraph 1 subparagraph 1.2 of the present Code.
3. Any person who has acted as a judge or as a state prosecutor in the same case may not be a defense counsel.

Article 57

Defense Counsel in Cases of Mandatory Defense

1. The defendant must have a defense counsel in the following cases of mandatory defense:
 - 1.1. from the first examination, when the defendant is mute, deaf, or displays signs of mental disorder or disability and is therefore incapable of effectively defending himself or herself;
 - 1.2. at hearings on detention on remand and throughout the time when he or she is in detention on remand;

- 1.3. from the filing of an indictment, if the indictment has been brought against him or her for a criminal offence punishable by imprisonment of at least ten (10) years; and
- 1.4. for proceedings under extraordinary legal remedies when the defendant is mute, deaf, or displays signs of mental disorder or disability or a punishment of life long imprisonment has been imposed.
- 1.5. in all cases when a defendant seeks to enter an agreement to plead guilty to a crime that carries a punishment of one (1) year or more of long period imprisonment or life long imprisonment, the defendant must be represented by counsel.
2. In a case of mandatory defense, if the defendant does not engage a defense counsel and no one engages a defense counsel on his or her behalf under Article 53 paragraph 8 of this Code, the pretrial judge or other competent judge shall appoint *ex officio* a defense counsel at public expense. If a defense counsel is appointed *ex officio* after the indictment has been brought, the defendant shall be informed of this at the same time as the indictment is served.
3. In a case of mandatory defense, if the defendant remains without a defense counsel in the course of the proceedings and if he or she fails to obtain another defense counsel, the single trial judge or presiding trial judge or the competent authority conducting the proceedings in the pre-trial phase shall appoint *ex officio* a new defense counsel at public expense.
4. A legal person is not entitled to a defence counsel appointed at public expense.

Article 58

Defense Counsel at Public Expense When There is Not Mandatory Defense

1. If the conditions are not met for mandatory defense, a defense counsel shall be appointed at public expense for the defendant at his or her request, if:
 - 1.1. there exists no conditions for mandatory defense and the criminal proceedings are being conducted for a criminal offence punishable by imprisonment of eight (8) or more years; or
 - 1.2. when in the interest of justice, independently from the punishment foreseen, a defense counsel is appointed to the suspect or defendant upon his or her request, if he or she is financially unable to pay the cost of his or her defense.
2. The defendant shall be instructed on the right to defense counsel at public expense under the previous paragraph before the first examination.
3. The request for the appointment of a defense counsel at public expense under paragraph 1 of the present Article may be filed throughout the course of the criminal proceedings. The president of the court or the competent authority conducting the proceedings in the pre-trial phase shall decide on the request and appoint a defense counsel. If the police or the state prosecutor refuses the request of the defendant for the appointment of a defense counsel at public expense, the defendant may appeal to the pre-trial judge.
4. Prior to the appointment of a defence counsel at public expense under the present Article, the defendant shall complete an affidavit listing his or her assets and declaring that he or she cannot afford legal counsel.

Article 59
Dismissal of Defense Counsel

1. The defendant may engage another defense counsel on his or her own instead of the appointed defense counsel. In this case, the appointed defense counsel shall be dismissed.
2. An appointed defense counsel may seek to be dismissed only for good cause.
3. A ruling on the dismissal of a defense counsel in a case under paragraphs 1 and 2 of the present Article shall be rendered before the main trial by the pre-trial judge, during the main trial by the single trial judge or presiding trial judge and in the appellate proceedings by the presiding appeals judge of the Court of Appeal or Supreme Court. No appeal shall be permitted against such ruling.
4. The president of the court may dismiss an appointed defense counsel who is not performing his or her duties properly at the request of the defendant or with his or her consent. The president of the court shall appoint an independent defense counsel of experience and competence commensurate with the nature of the criminal offence in place of the dismissed defense counsel. The Kosovo Bar shall be informed of the dismissal of any defense counsel.

Article 60
Withdrawal by Defense Counsel

1. A defense counsel who does not accept the task that has been entrusted to him or her or withdraws from it shall immediately notify the authority conducting the proceedings and whoever has appointed him or her of such refusal to accept or withdrawal.
2. Refusal to accept is effective from the moment when it is communicated to the authority conducting the proceedings.
3. Withdrawal is not effective until the defendant is provided with a new defense counsel of his or her own choice or under an *ex officio* appointment and until the expiry of the period which may be given to the substitute defense counsel to become familiar with the documents and the evidence.
4. Paragraph 3 of the present Article shall also apply to the cases under Article 59 paragraph 2 of the present Code.

Article 61
Rights of Defense Counsel as Representative of Defendant

1. The defense counsel has the same rights that the defendant has under the law, except those explicitly reserved to the defendant personally.
2. The defense counsel has the right to freely communicate with the defendant orally and in writing under conditions which guarantee confidentiality.
3. The defense counsel has the right to be notified in advance of the venue and time for undertaking any investigative actions and to participate in them and to inspect the records and evidence of the case in accordance with the provisions of the present Code.

CHAPTER VI THE INJURED PARTY

Article 62 Rights of the Injured Party

1. The injured party shall have the following rights:
 - 1.1. the injured party of a crime shall be treated with respect by the police, state prosecutors, judges or other body conducting the criminal proceedings.
 - 1.2. if an injured party of a crime can be identified, the police and state prosecutor or other body conducting the criminal proceedings shall contact the injured party in a reasonable manner and inform him or her that he or she is an injured party.
 - 1.3. the injured party has the status of a party to the criminal proceeding.
 - 1.4. the injured party has the right to a reasonable, court-ordered restitution from a defendant or defendants who have admitted to or been adjudged to be guilty for the financial, physical and emotional harm caused by the commission of a criminal offence for which the defendant or defendants have been adjudged guilty.
 - 1.5. if a court cannot order restitution from the defendants or defendants due to their inability to pay, absence from the jurisdiction of the court, or death, the injured party has the right for the court to refer the order of restitution to the coordinator of the victim compensation fund.

Article 63 Representatives of the Injured Party

1. The injured party may be represented by a representative who shall be a member of the bar of Kosovo.
2. The injured party may be represented by a victim advocate.
3. The injured party may represent himself or herself.

CHAPTER VII OVERSIGHT OF THE CRIMINAL PROCEEDINGS

Article 64 Court is Empowered to Fine Parties for Prolonging Criminal Proceedings

1. In the course of proceedings the court may impose a fine of up to two hundred fifty (250) EUR upon a defense counsel, an authorized representative or legal representative, an injured party, or a victim advocate if his or her actions are obviously aimed at prolonging criminal proceedings. The fine may be assessed for each occurrence of the actions aimed at prolonging the criminal proceedings under this paragraph.
2. The Kosovo Chamber of Advocates of shall be informed of the fining of a member of the Kosovo Chamber of Advocates or an attorney in training.

Criminal laws

3. If the state prosecutor does not file a motion with the court on time or undertakes other actions in proceedings with major delays and thereby causes proceedings to be prolonged, the Chief Prosecutor of that office shall be informed about it.

Article 65
Referring False Statements to State Prosecutor

1. If a judge becomes aware that a violation of Articles 391-401 of the Criminal Code has occurred during a criminal proceeding over which he or she presides, he or she may refer the person to the appropriate state prosecutor for investigation.
2. A judge who presides during a violation of Articles 391-401 of the Criminal Code according to paragraph 1 of this Article is excluded from any criminal proceedings resulting from the violation, but may continue to preside over the original criminal proceeding.

CHAPTER VIII
DUTIES OF NON-PARTIES

Article 66
Obligation of Public Entities to Assist State Prosecutor

All public entities shall be bound to provide the necessary assistance to the state prosecutor, the Court and other competent authorities participating in criminal proceedings, especially in matters concerning the investigation of criminal offences or the location of perpetrators.

Article 67
Release of Confidential Data

1. At the request of the court, institutions and persons responsible for maintaining databases shall, even without the consent of the person concerned, provide the court with data from the data-base they are keeping, if such data are indispensable for conducting criminal proceedings.
2. The court shall have a duty to protect the confidentiality of data so obtained.

**PART TWO
CRIMINAL PROCEEDINGS**

**CHAPTER IX
INITIATION OF INVESTIGATIONS AND CRIMINAL PROCEEDINGS**

1. STAGES OF THE CRIMINAL PROCEEDING

**Article 68
Stages of a Criminal Proceeding**

A criminal proceeding under this Criminal Procedure Code shall have four distinct stages: the investigation stage, the indictment and plea stage, the main trial stage and the legal remedy stage. A criminal proceeding may be preceded by initial steps by the police or information gathering under Article 84 of this Code.

2. INITIAL STEPS BY THE POLICE

**Article 69
Investigation by Police**

1. The police shall investigate possible criminal offences in compliance with Article 70 of this code to determine whether a criminal proceeding is warranted.
2. The state prosecutor and the police shall work together during the initial steps in Article 70 of this Code.
3. Once a measure is authorized under Article 84 or a criminal proceeding is initiated under Article 102 of this Code, the state prosecutor directs and supervises the work of police and other or other body conducting the criminal investigation.
4. The state prosecutor shall have access to all relevant investigative information in the possession of the police during the initial steps.

**Article 70
Police Investigation Steps**

1. After receiving information of a suspected criminal offence, the police shall investigate whether a reasonable suspicion exists that a criminal offence prosecuted *ex officio* has been committed.
2. The police shall investigate criminal offences and shall take all steps necessary to locate the perpetrator, to prevent the perpetrator or his or her accomplice from hiding or fleeing, to detect and preserve traces and other evidence of the criminal offence and objects which might serve as evidence, and to collect all information that may be of use in criminal proceedings.
3. In order to perform the tasks under the present Article the police shall have the power:
 - 3.1. to gather information from persons;
 - 3.2. to perform provisional inspection of vehicles, passengers and their luggage;

Criminal laws

- 3.3. to restrict movement in a specific area for the time this action is urgently necessary;
 - 3.4. to take the necessary steps to establish the identity of persons and objects;
 - 3.5. to organize a search to locate an individual or an object being sought by sending out a search circular;
 - 3.6. to search specific buildings and premises of public entities in the presence of a responsible person and to examine specific documentation belonging to them;
 - 3.7. to confiscate contraband or objects which may serve as evidence in criminal proceedings, unless doing so would require an order under Article 105 of this Code;
 - 3.8. to provide for a physical examination of the injured party, in accordance with Article 144 of the present Code;
 - 3.9. to detect, collect and preserve traces and evidence from the scene of the incident a suspected criminal offence and to order forensic testing of that evidence by the forensic laboratory in accordance with Article 71 of this Code;
 - 3.10. to interview witnesses or possible suspects in accordance with Article 73 of this Code;
 - 3.11. to take steps necessary to prevent an emergent danger to the public;
 - 3.12. to take all steps necessary to locate the perpetrator and to prevent the perpetrator or his or her accomplice from hiding or fleeing; and
 - 3.13. to undertake other necessary steps and actions provided for by the law.
4. The police shall make a record, photograph or official note of the actions they take and of the facts and circumstances which are established by their investigation.
 5. As soon as the police obtain a reasonable suspicion that a criminal offence prosecuted *ex officio* has been committed, the police have a duty to provide a police report within twenty four (24) hours to the competent state prosecutor, who shall decide whether to initiate a criminal proceeding.

Article 71 Collection of Evidence from Crime Scene

1. For evidence existing at the scene of an incident a suspected criminal act, the police shall carefully collect the evidence and preserve it in the appropriate manner that permits the evidence to be tested by the competent laboratory.
2. For potential evidence subject to forensic testing which would be taken from an individual's body, excluding fingerprints, the police must either have the written consent of the individual for the evidence to be taken or a court order under Article 143, 144 or 145 of this Code that authorizes the evidence to be taken.

Article 72 Police Right to Briefly Detain

The police have the right to detain and gather information from persons found at the scene of the criminal offence who may provide information important for the criminal

proceedings if it is likely that the gathering of information from these persons at a later time and date would be impossible or would significantly delay the proceedings or cause other difficulties. The detention of such persons shall last no longer than necessary for names, addresses and other relevant information to be gathered, and in any case it shall not exceed six (6) hours. Such detention should only be used when no other means are available to gather the information. The police shall treat the person being briefly detained with dignity and shall not briefly detain the person in a detention center or with handcuffs.

Article 73

Interviews by Police

1. Only during a duly authorized covert investigation, the police have the right to participate in conversations with persons who may be witnesses to or possible suspects of criminal offences. During these conversations the police may ask questions relating to the criminal offence. These conversations shall be recorded, if possible. If these conversations cannot be recorded, the police officer shall accurately summarize the conversations and explain why the conversations were not recorded as soon as practicable in a police report.
2. The police have the right to interview persons who may be witnesses to a criminal offence and to create a Police Report of the interview. The Report shall contain the exact questions and answers during the interview, shall identify the police officer interviewing the witness, the time, date and location of the interview, and shall identify the witness.
3. The police have the right to interview persons who may be suspects of committing a criminal offence but shall first inform the suspect on the offenses that he or she is suspected of having committed and of their rights under Article 125, paragraph 3. The police shall prepare a Police Report of the interview. The Report shall accurately summarize the questions and answers during the interview, shall identify the police officer interviewing the suspect, the time, date and location of the interview.
4. During an interview under paragraph 3 of this Article, the suspect has the right to interpretation or translation of relevant documents without payment.

Article 74

Prohibitions in Police Questioning

Article 257 of the present Code shall apply to gathering information from persons under Articles 72-73 of the present Code.

Article 75

Provisional Security Searches

1. If there is a danger that a person is carrying a weapon or a dangerous object that can be used for attack or self-injury, the police can perform a provisional security search of such person to search for weapons or other dangerous objects.

Criminal laws

2. A provisional security search shall not constitute a search of a person and will be limited to frisking the outside of the person's clothing and, exceptionally, provisionally checking the luggage or vehicle of a person under direct control of such person.
3. A provisional security search of a person shall be conducted by a police officer of the same sex as the person being searched unless this is absolutely not possible due to special circumstances.
4. If in conducting a provisional security search the police finds objects that may be used as evidence in criminal proceedings, the police shall proceed in accordance with the provisions governing the search of persons under the present Code.

Article 76 **Measures to Identify a Suspect**

1. The police may photograph a person and take his or her fingerprints, if there is a reasonable suspicion that he or she has committed a criminal offence.
2. The state prosecutor may authorize the police to release the photograph for general publication, when this is necessary to establish the identity of a suspect or in other cases of importance for the effective conduct of proceedings.
3. If it is necessary to identify whose fingerprints have been found on certain objects, police may take the fingerprints of persons likely to have come into contact with such objects.
4. Police may with the assistance of a qualified physician or nurse or in exigent circumstances on their own collect the samples referred to in Article 143, 144 or 145 of the present Code from a suspect if it is urgent. The state prosecutor shall be informed immediately of the collection of such samples.
5. Police may request a suspect to take an alcohol test by providing urine or breath samples, and the refusal of the suspect to provide such samples constitutes admissible evidence. The suspect shall be notified of this in advance. Neither sample shall be taken by compulsion without a court order.

Article 77 **Collection of Information from Injured Party by Police**

1. When gathering information from an injured party, the police shall inform the injured party of his or her rights under Article 62 of the present Code and upon the request of the injured party and, where the injured party belongs to one of the categories referred to in Article 62, paragraph 1 of the present Code, shall notify the Victim Advocacy Unit.
2. A person against whom any of the measures provided for in Articles 69 - 83 of the present Code has been taken is entitled to file an appeal with the competent state prosecutor within three days from the taking of the measures.
3. The state prosecutor shall, without delay, verify the grounds for the appeal referred to in paragraph 2 of the present Article and if it is established that the actions or measures undertaken violate the criminal law or the code of conduct applicable to the police or employment obligations, he or she shall act in accordance with the law and shall inform the person who filed the appeal.

Article 78
Criminal Report by Public Entities

1. All public entities have a duty to report criminal offences prosecuted *ex officio* of which they have been informed or which they have learned of in some other manner.
2. In submitting a criminal report, the public entities referred to in paragraph 1 of the present Article shall present evidence known to them and shall undertake steps to preserve traces of the criminal offence, objects upon which or with which the criminal offence was committed and other evidence.

Article 79
Criminal Report by Persons

1. Any person is entitled to report a criminal offence which is prosecuted *ex officio* and shall have a duty to do so when the failure to report a criminal offence constitutes a criminal offence.
2. A social worker, a health care worker, a teacher, a tutor or another person working in a similar capacity who learns of or discovers that there is a reasonable suspicion that a child has been a victim of a criminal offence, and in particular of a criminal offence against sexual integrity, shall immediately report this.
3. When prosecution for a certain criminal offence depends on a motion for prosecution by the injured party or on the prior approval of the competent authority, the state prosecutor may not conduct an investigation or file an indictment without submitting proof that the motion or the approval has been granted. In cases of urgency, the state prosecutor can proceed with an oral motion for prosecution which has to be confirmed in forty-eight (48) hours in writing. A criminal report signed by the injured party shall be sufficient under this Paragraph.

Article 80
Criminal Report Submitted to State Prosecutor

1. A criminal report shall be submitted to the competent state prosecutor in writing, by technical means of communication or orally.
2. If a criminal offence has been reported orally, the person reporting it shall be warned of the consequences of making a false criminal report. A record shall be compiled of oral reports and an official note shall be made of reports received over the telephone or other technical means of communication.
3. A criminal report submitted to a court, to the police or to a state prosecutor who is not competent shall be accepted and forwarded without delay to the competent state prosecutor.

Article 81
Police Criminal Report

1. On the basis of information and evidence gathered the police shall draw up a police criminal report setting out evidence discovered in the process of gathering information.

2. The police criminal report shall be submitted to the state prosecutor along with objects, sketches, photographs, reports obtained, records of the measures and actions undertaken, official notes, statements taken and other materials which might contribute to the effective conduct of proceedings.
3. If, after submitting the police criminal report, the police learn of new facts, evidence or traces of the criminal offence, they have a continuing duty to gather the necessary information and to submit immediately to the state prosecutor a report to that effect, as a supplement to the police criminal report.
4. If the measures and actions undertaken by the police, the evidence, and the information gathered provide no basis for a police criminal report and there is no reasonable suspicion that a criminal offence has been committed, the police will nevertheless send a separate report to that effect to the state prosecutor.

Article 82 **Dismissal of Police Criminal Report**

1. The state prosecutor shall issue a decision dismissing a criminal report received from the police or another source within thirty (30) days if it is evident from the report that:
 - 1.1. there is no reasonable suspicion that a criminal offence has been committed;
 - 1.2. the period of statutory limitation for criminal prosecution has expired;
 - 1.3. the criminal offence is covered by an amnesty or pardon;
 - 1.4. the suspect is protected by immunity and a waiver is not possible or not granted by the appropriate authority; or
 - 1.5. there are other circumstances that preclude prosecution.
2. The state prosecutor shall immediately deliver to the police a copy of the decision pursuant to paragraph 1 of this Article.
3. The state prosecutor shall notify the injured party of the dismissal of the report and the reasons for this within eight (8) days of the dismissal of the report.

Article 83 **Supplemental Information to Police Criminal Report**

1. If from the criminal report itself the state prosecutor is unable to conclude whether the allegations contained in it are probable, or if information in the report does not provide a sufficient basis for an investigation to be initiated or if the state prosecutor has only heard a rumor that a criminal offence was committed, the state prosecutor, if he or she is unable to do so on his own, shall request that the police gather the necessary information. The police are bound to follow the state prosecutor's lawful requests.
2. The state prosecutor may also gather such information on his or her own, or from other public entities, including by speaking to witnesses and injured parties, and their legal counsel. The state prosecutor may participate with the police in any examination of the defendant while he or she must respect the rights of suspects under the provisions of this Code.
3. The police shall have a duty to report immediately to the state prosecutor on the

measures they have undertaken under his or her instruction or, if they are unable to undertake them, they shall immediately report to the state prosecutor the reasons for their inability to undertake such measures.

4. The state prosecutor may request necessary data from public entities and may for this purpose summon the person who has submitted the criminal report.
5. The state prosecutor shall dismiss the criminal report within thirty (30) days as provided for in Article 79 of the present Code, if the circumstances under paragraph 1 of the present Article obtain, even after actions under paragraphs 2, 3 and 4 of the present Article have been undertaken.
6. The police, state prosecutor and other public entities have a duty to proceed cautiously in gathering or supplying information, taking care not to harm the dignity and reputation of the person to whom such information refers.

3. GATHERING OF INFORMATION

Article 84

Measures Taken Prior to Criminal Proceedings

1. If the state prosecutor has grounded suspicion that a criminal offence listed in Article 90 of this Code has been committed, is being committed or will soon be committed, the state prosecutor may authorize or request the pretrial judge to authorize covert or technical investigative measures in accordance with Articles 86-100 of this Code.
2. The state prosecutor or pretrial judge does not need to have a reasonable suspicion of the identity of the suspect or suspects who committed, are committing or will soon commit the criminal offence in order to authorize covert or technical investigative measures in accordance with paragraph 1 of this Article.
3. If the authorization for covert or technical investigative measures is based, in whole or in part, on grounded suspicion provided by information from an informant, witness or cooperative witness, the state prosecutor may interview the informant, witness or cooperative witness.
4. A criminal proceeding does not need to have been initiated for the state prosecutor or pretrial judge to authorize covert or technical investigative measures in accordance with paragraph 1 of this Article; however, a criminal proceeding shall be initiated as soon as the state prosecutor has a reasonable suspicion of the identity of the suspect or suspects who committed the criminal offence.
5. If covert or technical investigative measures are authorized in accordance with paragraph 1 of this Article, the state prosecutor shall take reasonable precautions to preserve the privacy of people who are not involved with the criminal offence.
6. If a criminal proceeding is authorized after covert or technical investigative measures were taken under paragraph 1 of this Article, the state prosecutor shall include the orders for the covert or technical investigative measures and the resulting evidence in the file for the criminal proceeding.
7. If a state prosecutor does not authorize a criminal proceeding after covert or technical investigative measures were taken under paragraph 1 of this Article, the state prosecutor shall report the measures taken to the pre-trial judge.

Article 85
Secrecy of Information Gathering

1. If the state prosecutor authorizes covert or technical investigative measures in accordance with Article 84, paragraph 1 of this Code, the file shall be sealed and kept secret if the state prosecutor requests that it be sealed and shows a substantial likelihood that public knowledge of the preliminary investigation would interfere with the investigation or pose a danger to witnesses or investigators.
2. If the state prosecutor requests the pretrial judge to order covert or technical investigative measures, the court shall seal and keep secret the file if the state prosecutor requests that it be sealed and shows a substantial likelihood that public knowledge of the preliminary investigation would interfere with the investigation or pose a danger to witnesses or investigators.
3. The file shall be sealed no more than twelve (12) months or until the initiation of the investigative stage, at which time the Court Registrar shall unseal the file.
4. The pre-trial judge may order the file to remain sealed for an additional six (6) months only if the state prosecutor demonstrates a substantial likelihood that public knowledge of the preliminary investigation would interfere with the investigation or pose a danger to witnesses or investigators.
5. Covert and Technical Investigative Measures.

Article 86
Conditions for the Application of Covert and Technical Investigative and Surveillance Measures

1. Covert and technical investigative measures may be authorized in accordance with Article 84 of this Code, and
2. After an Investigative Stage has been initiated, or concurrent with the state prosecutor's decision to initiate the preliminary investigation, the state prosecutor may request the pretrial judge to authorize covert or technical investigative measures in accordance with Articles 86-100 of this Code.

Article 87
Definition of Covert and Technical Measures of Surveillance and Investigation During Preliminary Investigation

For the purposes of the present Chapter:

1. A covert or technical measure of surveillance or investigation ("a measure under the present Chapter") means any of the following measures:
 - 1.1. covert photographic or video surveillance;
 - 1.2. covert monitoring of conversations;
 - 1.3. search of postal items;
 - 1.4. interception of telecommunications and use of an International Mobile Service Identification "IMSI" Catcher;
 - 1.5. interception of communications by a computer network;
 - 1.6. 1.6.controlled delivery of postal items;

- 1.7. use of tracking or positioning devices;
 - 1.8. a simulated purchase of an item;
 - 1.9. a simulation of a corruption offence;
 - 1.10. an undercover investigation;
 - 1.11. metering of telephone-calls; and
 - 1.12. disclosure of financial data.
2. The term “**covert photographic or video surveillance**” means the monitoring, observing, or recording of persons, their movements or their other activities by a duly authorized police officer by means of photographic or video devices, without the knowledge or consent of at least one of the persons subject to the measure;
 3. The term “**covert monitoring of conversations**” means the monitoring, recording, or transcribing of conversations by a duly authorized police officer by technical means without the knowledge or consent of at least one of the persons subject to the measure;
 4. The term “**search of postal items**” means the search by a duly authorized police officer of letters and other postal items which may include the use of X-ray equipment;
 5. The term “**Interception of telecommunications**” means the interception of voice communications, text communications or other communications through the fixed or mobile telephone networks. This shall include any similar technological device or system that carries information that is normally intended to be private;
 6. The term “**controlled delivery of postal items**” means the delivery by a duly authorized police officer of letters and other postal materials;
 7. The term “**use of tracking or positioning devices**” means the use by a duly authorized police officer of devices, which identify the location of the person or object to whom it is attached;
 8. The term “**a simulated purchase of an item**” means an act of buying from a person suspected of having committed a criminal offence an item which may serve as evidence in criminal proceedings or a person suspected to be a victim of the criminal offence of Trafficking in Persons, as defined in Article 170 of the Criminal Code;
 9. The term “**a simulation of a corruption offence**” means an act, which is the same as a criminal offence related to corruption, except that it has been performed for the purpose of collecting information and evidence in a criminal investigation;
 10. The term “**an undercover investigation**” means the planned interaction of a duly authorized police officer or cooperative agent of the prosecution who is not identifiable as a duly authorized police officer or of a person acting under the supervision of a duly authorized police officer with persons suspected of having committed a criminal offence;
 11. The term “**metering of telephone calls**” means obtaining a record of telephone calls made from a given telephone number;
 12. The term “**disclosure of financial data**” means obtaining information from a bank or another financial institution on deposits, accounts or transactions;
 13. The term “**authorizing judicial officer**” means the pre-trial judge or state prosecutor under whose authority an order under the present Chapter has been issued; and

14. The term “**subject of an order**” means the person against whom a measure under the present Chapter has been ordered.

Article 88

Intrusive Covert and Technical Measures of Surveillance and Investigation

1. Covert photographic or video surveillance, covert monitoring of conversations in public places, metering of telephone calls or disclosure of financial data may be ordered against a particular person or place if:
 - 1.1. there is a grounded suspicion that a place is being used for, or such person has committed a criminal offence which is prosecuted *ex officio* or, in cases in which attempt is punishable, has attempted to commit a criminal offence which is prosecuted *ex officio*; and
 - 1.2. the information that could be obtained by the measure to be ordered would be likely to assist in the investigation of the criminal offence and would be unlikely to be obtained by any other investigative action without unreasonable difficulty or potential danger to others.
2. Metering of telephone calls or disclosure of financial data may also be ordered against a person other than the suspect, where the criteria in paragraph 1 subparagraph 1.1 of the present Article apply to a suspect and the precondition in paragraph 1 subparagraph 1.2 of the present Article is met and if there is a grounded suspicion that:
 - 2.1. such person receives or transmits communications originating from or intended for the suspect or participates in financial transactions of the suspect; or
 - 2.2. the suspect uses such person’s telephone.
3. Covert monitoring of conversations in private places, search of postal items, interception of telecommunications, interception of communications by a computer network, controlled delivery of postal items, the use of tracking or positioning devices, a simulated purchase of an item, a simulation of a corruption offence or an undercover investigation may be ordered against a particular person, place or item if:
 - 3.1. there is a grounded suspicion that a place or item is being used for, or such person has committed or, in cases in which attempt is punishable, has attempted to commit a criminal offence listed in Article 90 of this Code.
 - 3.2. the information that could be obtained by the measure to be ordered would be likely to assist in the investigation of the criminal offence and would be unlikely to be obtained by any other investigative action without unreasonable difficulty or potential danger to others.
4. The search of postal items, the interception of telecommunications or the interception of communications by a computer network may also be ordered against a person other than the suspect, where the criteria in paragraph 3 subparagraph 3.1 of the present Article apply to a suspect and the precondition in paragraph 3 subparagraph 3.2 of the present Article is met and if there is a grounded suspicion that:
 - 4.1. such person receives or transmits communications originating from or intended for the suspect; or

- 4.2. the suspect is using such person's telephone or point of access to a computer system.

Article 89
Standards for Orders under Article 88

1. The measures in Article 88, paragraph 2 or paragraph 4 of this Code can be ordered if:
 - 1.1. there is a grounded suspicion that a telephone number or email address, or financial account has been used in the commission of or, in cases in which attempt is punishable, has been used in the attempt to commit a criminal offence listed in Article 90 of this Code; and,
 - 1.2. the owner or user of the telephone number or email address or financial account is not known, is a legal person, or there is a grounded suspicion that telephone number, email address or financial account is being used by someone other than the owner.

Article 90
Offences Justifying Orders under Article 88

1. An order under Article 88 of this Code shall only be used to investigate at least one of the following suspected criminal offences:
 - 1.1. a criminal offence punishable by a minimum of five (5) or more years imprisonment; or
 - 1.2. one or more of the following criminal offences,
 - 1.2.1. violence against High Representatives of the Republic of Kosovo, as defined by Article 127 of the Criminal Code;
 - 1.2.2. endangering the Constitutional Order by Destroying or Damaging Public Installations and Facilities, as defined by Article 128 of the Criminal Code;
 - 1.2.3. sabotage, as defined by Article 129 of the Criminal Code;
 - 1.2.4. espionage, as defined by Article 130 of the Criminal Code;
 - 1.2.5. concealment or Failure to Report Terrorists and Terrorist Groups, as defined by Article 141 of the Criminal Code;
 - 1.2.6. preparation of Terrorist Offences or Criminal Offenses against the Constitutional Order and Security of the Republic of Kosovo, as defined by Article 143 of the Criminal Code;
 - 1.2.7. endangering Negotiators, as defined by Article 158 of the Criminal Code;
 - 1.2.8. organization of Groups to Commit Genocide, Crimes against Humanity and War Crimes, as defined by Article 159 of the Criminal Code;
 - 1.2.9. hijacking Aircraft, as defined by Article 163 of the Criminal Code;
 - 1.2.10. endangering Civil Aviation Safety, as defined by Article 164 of the Criminal Code;
 - 1.2.11. slavery, Slavery-like Conditions and Forced Labour, as defined by Article 168 of the Criminal Code;

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- 1.2.12. smuggling of Migrants, as defined by Article 169 of the Criminal Code;
- 1.2.13. trafficking in Persons, as defined by Article 170 of the Criminal Code;
- 1.2.14. withholding Identity Papers of Victims of Slavery or Trafficking in Persons, as defined by Article 171 of the Criminal Code;
- 1.2.15. endangering Internationally Protected Persons, as defined by Article 172 of the Criminal Code;
- 1.2.16. endangering United Nations and Associated Personnel, as defined by Article 173 of the Criminal Code;
- 1.2.17. hostage-Taking, as defined by Article 174 of the Criminal Code;
- 1.2.18. threats to Use of Commit Theft or Robbery of Nuclear Material, as defined by Article 176 of the Criminal Code;
- 1.2.19. kidnapping, as defined in Article 193 of the Criminal Code;
- 1.2.20. torture, as defined in Article 198 of the Criminal Code;
- 1.2.21. violation of the Right to Be a Candidate, as defined in Article 209 of the Criminal Code;
- 1.2.22. threat to the Candidate, as defined in Article 210 of the Criminal Code;
- 1.2.23. abuse of Official Duty During Elections, as defined in Article 213 of the Criminal Code;
- 1.2.24. giving or Receiving a Bribe in Relation to Voting, as defined in Article 214 of the Criminal Code;
- 1.2.25. falsification of Voting Results, as defined in Article 218 of the Criminal Code;
- 1.2.26. destroying Voting Documents, as defined in Article 219 of the Criminal Code;
- 1.2.27. rape, as defined in Article 229 of the Criminal Code;
- 1.2.28. sexual Services of a Victim of Trafficking, as defined in Article 230 of the Criminal Code;
- 1.2.29. facilitating or Compelling Prostitution, as defined in Article 240 of the Criminal Code;
- 1.2.30. unlawful Transplantation and Trafficking of Human Organs and Tissues, as defined in Article 264 of the Criminal Code;
- 1.2.31. pollution of Drinking Water, as defined in Article 269 of the Criminal Code;
- 1.2.32. pollution of Food Products used by People or Animals, as defined in Article 270 of the Criminal Code;
- 1.2.33. unauthorized Purchase, Possession, Distribution and Sale of Narcotic Drugs, Psychotropic Substances, Analogues, as defined in Article 272 of the Criminal Code;
- 1.2.34. unauthorized production and processing of Narcotic Drugs, Psychotropic Substances, Analogues or Narcotic Drug Paraphernalia, Equipment or Materials, as defined in Article 273 of the Criminal Code;
- 1.2.35. organizing, Managing or Financing Trafficking in Narcotic Drugs or

- Psychotropic Substances, as defined in Article 278 of the Criminal Code;
 - 1.2.36. violating Right of Equality in Exercising Economic Activity, as defined in Article 283 of the Criminal Code;
 - 1.2.37. misuse of Economic Authorizations, as defined in Article 289 of the Criminal Code;
 - 1.2.38. counterfeiting Securities and Payment Instruments, as defined in Article 292 of the Criminal Code;
 - 1.2.39. organizing Pyramid Schemes and Unlawful Gambling, as defined in Article 299 of the Criminal Code;
 - 1.2.40. counterfeiting Money, as defined in Article 301 of the Criminal Code;
 - 1.2.41. production, Supply, Selling, Possession or Provision for Use the Means of Counterfeiting, as defined in Article 303 of the Criminal Code;
 - 1.2.42. money Laundering, as defined in Article 307 of the Criminal Code;
 - 1.2.43. agreements in Restriction of Competition Upon Invitation to Tender, as defined in Article 308 of the Criminal Code;
 - 1.2.44. fraud in Trading with Securities, as defined in Article 309 of the Criminal Code;
 - 1.2.45. government Securities Collusion and Fraud, as defined in Article 311 of the Criminal Code;
 - 1.2.46. tax Evasion, as defined in Article 312 of the Criminal Code;
 - 1.2.47. unjustified Acceptance of Gifts, as defined in Article 314 of the Criminal Code;
 - 1.2.48. unjustified Giving of Gifts, as defined in Article 315 of the Criminal Code;
 - 1.2.49. smuggling of Goods, as defined in Article 316 of the Criminal Code;
 - 1.2.50. avoiding Payment of Mandatory Customs Fees, as defined in Article 317 of the Criminal Code;
 - 1.2.51. arson, as defined in Article 333 of the Criminal Code;
 - 1.2.52. fraud, as defined in Article 334 of the Criminal Code;
 - 1.2.53. subsidy Fraud, as defined in Article 335 of the Criminal Code;
 - 1.2.54. fraud Related to Receiving Funds from European Community, as defined in Article 336 of the Criminal Code;
 - 1.2.55. misuse of Insurance, as defined in Article 337 of the Criminal Code;
 - 1.2.56. intrusion into Computer Systems, as defined in Article 338 of the Criminal Code;
 - 1.2.57. unlawful Handling Hazardous Substances and Waste, as defined in Article 347 of the Criminal Code; or
 - 1.2.58. unauthorized Import, Export, Supply, Transport, Production, Exchange, Brokering or Sale of Weapons or Explosive Materials, as defined in Article 371 of the Criminal Code.
- 1.3. one or more of the following criminal offences, if committed in the furtherance of terrorism, corruption or organized crime:

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- 1.3.1. threat, as defined in Article 184 of the Criminal Code;
 - 1.3.2. harassment, as defined in Article 185 of the Criminal Code;
 - 1.3.3. assault, as defined in Article 186 of the Criminal Code;
 - 1.3.4. grievous Bodily Injury, as defined in Article 188 of the Criminal Code;
 - 1.3.5. coercion, as defined in Article 194 of the Criminal Code;
 - 1.3.6. extortion, as defined in Article 339 of the Criminal Code;
 - 1.3.7. blackmail, as defined in Article 340 of the Criminal Code;
 - 1.3.8. causing General Danger, as defined in Article 364 of the Criminal Code;
 - 1.3.9. destroying, Damaging or Removing Public Installations, as defined in Article 365 of the Criminal Code;
 - 1.3.10. destroying, Damaging or Removing Safety Equipment and Endangering Work Place Safety, as defined in Article 366 of the Criminal Code;
 - 1.3.11. unlawful Delivery or Transportation of Explosives or Flammable Materials, as defined in Article 368 of the Criminal Code;
 - 1.3.12. use of Weapon or Dangerous Instrument, as defined in Article 374 of the Criminal Code;
 - 1.3.13. obstruction of Evidence or Official Proceeding, as defined in Article 393 of the Criminal Code;
 - 1.3.14. intimidation During Criminal Proceedings for Organized Crime, as defined in Article 394 of the Criminal Code;
 - 1.3.15. abusing Official Position or Authority, as defined in Article 421 of the Criminal Code;
 - 1.3.16. misusing Official Information, as defined in Article 422 of the Criminal Code;
 - 1.3.17. conflict of Interest, as defined in Article 423 of the Criminal Code;
 - 1.3.18. misappropriation in Office, as defined in Article 424 of the Criminal Code;
 - 1.3.19. fraud in Office, as defined in Article 425 of the Criminal Code;
 - 1.3.20. accepting Bribes, as defined in Article 427 of the Criminal Code;
 - 1.3.21. giving Bribes, as defined in Article 428 of the Criminal Code;
 - 1.3.22. giving Bribes to Foreign Official, as defined in Article 429 of the Criminal Code;
 - 1.3.23. trading in Influence, as defined in Article 430 of the Criminal Code;
or
 - 1.3.24. disclosing Official Secrets, as defined in Article 431 of the Criminal Code.
2. Evidence obtained pursuant to a lawfully ordered measure under Article 88 of this Code shall be admissible at the Main Trial regardless of whether the indictment charges any of the Criminal Offences listed in this Article.

Article 91

Persons Competent to Apply for and Order Covert and Technical Measures of Surveillance and Investigation

1. A state prosecutor may issue a provisional order for one of the measures provided for in paragraph 2 of this Article only in emergency criminal cases, or in criminal proceedings that are investigating criminal offences under Chapter XXIV or Chapter XXXIV of the Criminal Code or money laundering offences in necessary cases, if the delay that would result from a pre-trial judge issuing an order under paragraph 2 of the present Article would jeopardize the security of investigations or the life and safety of an injured party, witness, informant or their family members. Such provisional order ceases to have effect if it is not confirmed in writing by a pre-trial judge within three (3) days of issuance. When confirming the provisional order of a state prosecutor, the pre-trial judge shall make a written determination as to its lawfulness *ex officio*.”
2. A pre-trial judge may issue an order for each of the following measures on the basis of an application by a state prosecutor:
 - 2.1. covert photographic or video surveillance in public places;
 - 2.2. covert monitoring of conversations in public places;
 - 2.3. an undercover investigation;
 - 2.4. metering of telephone calls;
 - 2.5. covert photographic or video surveillance in private places;
 - 2.6. covert monitoring of conversations in private places;
 - 2.7. search of postal items;
 - 2.8. interception of telecommunications; including text messages or other electronic messages;
 - 2.9. interception of communications by a computer network;
 - 2.10. controlled delivery of postal items;
 - 2.11. use of tracking or positioning devices;
 - 2.12. a simulated purchase of an item;
 - 2.13. a simulation of a corruption offense; or
 - 2.14. disclosure of financial data.”
3. An application for one of the measures provided for in paragraph 1, 2 or 3 of the present Article shall be made in writing and shall include the following information:
 - 3.1. the identity of the duly authorized police officer, officer of the body authorized to enforce criminal law or the state prosecutor making the application;
 - 3.2. reasons and facts that support the application and fulfill the criteria in Article 88 of this Code; and
 - 3.3. information about any previous application known to the applicant involving the same person and the action undertaken by the authorizing judicial officer on such application.

Article 92

Orders for Covert and Technical Measures of Surveillance and Investigation

1. An order for a measure under the present Chapter which shall not exceed sixty (60) days from the date of the issuance of the order shall be in writing and shall specify:
 - 1.1. the name and address of the subject or subjects of the order, if known the number of affected data subjects and the scene of the event;
 - 1.2. the official designation of the measure and its exact legal bases;
 - 1.3. the grounds for the order in particular the current findings and the sound probability according to Article 19 subparagraph 1.11 of this Code;
 - 1.4. measure and its exact starting and closing time, if applicable; and
 - 1.5. the person authorized to implement the measure and the officer responsible for supervising such implementation.
2. An order for a measure under the present Chapter shall require that duly authorized police officers provide the authorizing judicial officer a report on the implementation of the order at fifteen (15) day intervals from the date of the issuance of the order.
3. An order for covert photographic or video surveillance in private places, monitoring of conversations in private places, interception of telecommunications, interception of communications by a computer network or the use of tracking or positioning devices may specifically permit duly authorized police officers to enter private premises if a pre-trial judge determines that such entry is necessary to activate or disable the technical means for the implementation of such measures. If duly authorized police officers enter private premises pursuant to an order under this paragraph, their actions in the private premises shall be limited to those necessary to activate or disable the technical means.
4. An order for the metering of telephones or the interception of communications by a computer network shall include all the elements for the identification of each telephone or point of access to a computer network to be intercepted. Except as provided in paragraph 5 of the present Article, an order for the interception of telecommunications shall include all the elements for the identification of each telephone to be intercepted.
5. Upon the application of a state prosecutor, an order for the interception of telecommunications may include only a general description of the telephones which may be intercepted, where a pre-trial judge of the competent Basic Court has determined that there is a grounded suspicion that:
 - 5.1. the suspect is using various telephones so as to avoid surveillance by duly authorized police officers; and
 - 5.2. a telephone or telephones, as described in the order, are being used or are about to be used by the suspect.
6. If an order for the interception of telecommunications is issued by a pre-trial judge of a Basic Court pursuant to paragraph 5 of the present Article,
 - 6.1. the duly authorized police officers after implementing the order in respect of a particular telephone shall promptly inform the pre-trial judge in writing of the relevant facts, including the number of the telephone;
 - 6.2. the order may not be used to intercept the telecommunications of a person who is not the suspect; and

- 6.3. the duration of the order is limited to fifteen (15) days and may be renewed up to a total period of ninety (90) days from the date of issuance of the order.
7. An order for the search of postal items or for the controlled delivery of postal items shall designate the address on the postal items to be searched or delivered. Such address shall be that of the subject or subjects of the order.
8. An order for interception of telecommunications, interception of communications by a computer network, metering of telephone calls, search of postal items, controlled delivery of postal items or disclosure of financial data shall include as an annex a separate written instruction to persons other than duly authorized police officers whose assistance may be necessary for the implementation of the order. Such written instruction shall be addressed to the director or the official in charge of the telecommunications system, computer network, postal service, bank or other financial institution and shall specify only the information, which is required for assistance in the implementation of the order.

Article 93
Implementation of Orders for Covert and Technical Measures
of Surveillance and Investigation

1. A duly authorized police officer shall commence the implementation of an order for a measure under the present Chapter no later than fifteen days after it has been issued.
2. The implementation of an order shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under the present Chapter.
3. If any of the conditions for ordering the measure cease to apply, duly authorized police officers shall suspend implementation of the order and shall notify in writing the authorizing judicial officer. If the order was issued by a pre-trial judge, the authorized police officers shall also notify the state prosecutor. On receiving the written notification the state prosecutor or competent judge shall make a written determination as to whether the order shall be terminated.
4. Duly authorized police officers shall make a record of the time and date of the beginning and end of each action undertaken in implementing the order. The record shall state the names of the duly authorized police officers who carried out each operation and the functions they performed. Such records shall be annexed to the report submitted to the state prosecutor or competent judge under Article 92 paragraph 2 of the present Code.
5. With respect to the implementation of an order for interception of telecommunications, interception of communications by a computer network, search of postal items, controlled delivery of postal items and metering of telephone calls, persons responsible for the operation of telecommunications, computer-networks or postal services shall facilitate the implementation of an order under the supervision of the director or official in charge of the telecommunications system, computer network, or postal services.
6. With respect to the implementation of an order for the disclosure of financial data,

- employees of a financial institution shall facilitate the implementation of such order under the supervision of the director or the official in charge of the financial institution.
7. A duly authorized police officer or a person acting under the supervision of a duly authorized police officer may perform a simulated purchase of an item or a simulation of a corruption offence.
 8. With respect to the implementation of an order for an undercover investigation, a simulated purchase of an item or a simulation of a corruption offence:
 - 8.1. a person implementing the order may not incite another person to commit a criminal offence which that person would not have committed but for the intervention of the person implementing the order; and
 - 8.2. a person who, in accordance with the provisions of the present Chapter, implements such order does not commit a criminal offence.
 9. Criminal proceedings shall not be initiated in respect of a criminal offence which has been incited in breach of paragraph 8 of the present Article.
 10. With respect to the implementation of an order for the interception of telecommunications, interception of communications by a computer network or search of postal items, such an order may not be implemented in relation to communications between a suspect and his or her lawyer, unless there is a grounded suspicion that the suspect and the lawyer are engaged together in criminal activity which constitutes the grounds for the order.

Article 94

Extension of Orders for Covert and Technical Measures of Surveillance and Investigation

1. The state prosecutor or competent judge may not issue a further written order for the extension of an order under the present Chapter, unless the preconditions for ordering a measure under the present Chapter, as set forth in Article 88 of the present Code, continue to apply and there is a reasonable explanation of the failure to obtain some or all of the information sought under the earlier order.
2. An order for covert photographic or video-surveillance in public places, covert monitoring of conversations, search of postal items, interception of communications by a computer network, controlled delivery of postal items, use of tracking or positioning devices, an undercover investigation, metering of telephone-calls or disclosure of financial data may be extended for a maximum period of sixty (60) days, which may be renewed up to a total period of three hundred sixty (360) days from the date of the issuance of the order.
3. An order for covert photographic or video-surveillance in private places or interception of telecommunications may be extended for a maximum of sixty (60) additional days, which may be renewed for a further maximum period of sixty (60) additional days.
4. An order for a simulated purchase of an item or a simulation of a corruption offence shall only authorize a single purchase of an item or a single simulation of a corruption offence. An authorizing judicial officer may issue a further such order in respect of the same subject, if the preconditions for ordering a measure under

the present Chapter, as set forth in Article 88 of the present Code, continue to apply and there is a reasonable explanation of the failure to obtain some or all of the information sought under the earlier order.

5. The authorizing judicial officer may modify an order at any time, if he or she determines that such modification is necessary to ensure that the preconditions for ordering a measure under the present Chapter, as set forth in Article 88 of the present Code, still apply.
6. The authorizing judicial officer may terminate an order at any time if he or she determines that the preconditions for ordering a measure, as set forth in Article 88 of the present Code, cease to apply.
7. The extension of an order for a measure ordered by a pre-trial judge may only be ordered on the motion of a state prosecutor.

Article 95

Materials Obtained by Covert and Technical Measures of Surveillance and Investigation

1. On the completion of the implementation of a measure under the present Chapter, the duly authorized police officers shall send all documentary records, tapes and other items relating to the order and its implementation (“collected materials”) to the state prosecutor.
2. Materials may be closed and held in secret if the state prosecutor considers that making them public would corrupt subsequent investigations or create a risk to the victim, witnesses, investigators or other persons.
3. Postal items, which do not contain information that will assist in the investigation of a criminal offence, shall immediately be forwarded to the recipient.

Article 96

Rights of Subjects of Orders under Article 88

1. Unless otherwise provided, measures pursuant to Articles 86 to 100 of this Code shall be subject to the following conditions.
2. Decisions and other documents concerning measures pursuant to Articles 86 to 100 of this Code shall be deposited at the state prosecution office. They shall be added to the files only if the requirements for a notification pursuant to sub-paragraph 5 of this Article have been met.
3. Personal data which was acquired by means of measures pursuant to Articles 86 to 100 of this Code is to be labeled accordingly. Following a transfer of the data to another agency, the labeling is to be maintained by such agency.
4. The following persons shall be notified of measures pursuant to Articles 86 to 100 of this Code:
 - 4.1. in the case of Article 87 subparagraph 1.1 and 1.7 of this Code, the person targeted and other persons significantly affected thereby;
 - 4.2. in the case of Article 87 subparagraph 1.2 of this Code, if there was covert monitoring of conversations in public places, the person targeted and other persons significantly affected thereby;

Criminal laws

- 4.3. in the case of Article 87 subparagraph 1.2 of this Code, if there was covert monitoring of conversation in private places:
 - 4.3.1. the accused person, against whom the measure was directed;
 - 4.3.2. other persons under surveillance;
 - 4.3.3. persons who owned or lived in the private premises under surveillance at the time the measure was effected;
- 4.4. in the case of Article 87 subparagraph 1.3 of this Code, the sender and the addressee of the postal item;
- 4.5. in the case of Article 87 subparagraph 1.4 of this Code, the participants in the telecommunication under surveillance, or, if an IMSI catcher was used, the person targeted;
- 4.6. in the case of Article 87 subparagraph 1.11 of this Code, the participants in the telecommunication concerned;
- 4.7. in the case of Article 87 subparagraph 1.10 of this Code:
 - 4.7.1. the person targeted;
 - 4.7.2. persons significantly affected thereby;
 - 4.7.3. persons whose private premises which are not generally accessible to the public were entered by the undercover investigator. In the notification, mention should be made of the option of subsequent court relief pursuant to paragraph 7 of this Article and the applicable time limit. Notification shall be dispensed with where overriding interests of an affected person that merit protection constitute an obstacle thereto. Investigations to determine the identity of a person listed in the first sentence are to be carried out only if this appears necessary taking into account the degree of invasiveness of the measure in respect of the person concerned, the effort associated with establishing their identity, as well as the resulting detriment for such person or other persons.
5. Notification shall take place as soon as it can be effected without endangering the purpose of the investigation, the life, physical integrity and personal liberty of another, or significant assets, in the case of Article 87 subparagraphs 1.1 and 1.10 subparagraph 1.3 of this Code including the possibility of continued use of the undercover investigator. Where notification is deferred pursuant to the first sentence, the reasons shall be documented on the file.
6. Where notification is deferred pursuant to paragraph 5 of this Article and has not taken place within twelve (12) months after completion of the measure, any further deferral of notification shall be subject to the approval of the court. The court shall decide upon the duration of any further deferrals. The court may approve the permanent dispensation with notification where there is a probability bordering on certainty that the requirements for notification will not be fulfilled, even in future. If several measures have been implemented within a short period of time, the time limit mentioned in the first sentence shall begin upon conclusion of the last measure. In the case of Article 87 (1) (2) the time period mentioned in the first sentence shall be six (6) months.
7. Court decisions pursuant to paragraph 6 of this Article shall be taken by the court competent to order the measure. In all other cases the court situated where the

competent state prosecution office is located shall be competent. Even after completion of the measure and for up to two weeks following their notification, the persons named in paragraph 4 of this Article, first sentence, may apply to the competent court pursuant to the first sentence for a review of the lawfulness of the measure, as well as of the manner and means of its implementation. An immediate complaint against the decision shall be admissible. Where public charges have been preferred and the accused has been notified, the court seized of the matter shall decide upon the application in its concluding decision.

8. Personal data acquired by means of the measure which is no longer necessary for the purposes of criminal prosecution or a possible court review of the measure shall be deleted without delay. The fact of the deletion is to be documented. Insofar as deletion of the data has been deferred merely for the purposes of a possible court review of the measure, the data shall not be used for any other purpose without the consent of the persons concerned; access to the data is to be restricted accordingly.
9. The state prosecutor shall promptly inform in writing by registered mail each subject of an order pursuant to paragraph 4 of this Article that he or she has been the subject of that order and has a right to file a suit to the competent court within six (6) months of being informed.

Article 97

Admissibility of Evidence Obtained through Orders for Covert and Technical Measures of Surveillance and Investigation

1. Evidence obtained by a measure under the present Chapter shall be inadmissible if the order for the measure and its implementation are unlawful.
2. Evidence which has been obtained by covert monitoring of conversations in private places, search of postal items, interception of telecommunications, interception of communications by a computer network, the controlled delivery of postal items, the use of tracking or positioning devices, a simulated purchase of an item, a simulation of a corruption offence or an undercover investigation is only admissible in criminal proceedings in respect of a criminal offence which is specified in Article 88 paragraph 3 of the present Code.
3. After the filing of the indictment, the single trial judge or presiding trial judge shall consider challenges by the defendant to the admissibility of the collected materials, if the challenge is filed prior to the second hearing. The decision on a challenge under this paragraph may be appealed.
4. At any time prior to the final judgment, the single trial judge or presiding trial judge may review the admissibility of materials collected under Article 88 of this Code *ex officio* for violations of the defendant's constitutional rights if there is an indication that the materials were collected unlawfully.
5. When the ruling that an order or its implementation is unlawful is final, the single trial judge or presiding trial judge assigned to the proceedings shall remove all collected materials from the record and submit such materials through the President of the Basic Court to a Surveillance and Investigation Review Panel for a decision on compensation.

Article 98
Surveillance and Investigation Review Panel

1. A Surveillance and Investigation Review Panel shall:
 - 1.1. adjudicate on a complaint submitted under paragraph 5 of the present Article in respect of a measure or an order for a measure under the present Chapter and decide on compensation where appropriate; or
 - 1.2. decide on compensation for the subject or subjects of an order under the present Chapter if a judge has made a final ruling under Article 97 paragraph 3 of the present Code that the order or its implementation is unlawful.
2. A Surveillance and Investigation Review Panel shall be composed of three judges who shall be assigned by the President of the Basic Court to adjudicate on an individual complaint or to decide on compensation following an individual ruling under Article 97 paragraph 3 of the present Code. None of the three members of the Surveillance and Investigation Review Panel shall be professionally connected with the subject of the complaint or the collected materials, which are the subject of the ruling under Article 97 paragraph 3 of the present Code.
3. Authorized police officers and state prosecutors shall provide the Surveillance and Investigation Review Panel with such documents as the Surveillance and Investigation Review Panel shall require to perform its functions and shall, on request, provide oral testimony to the Surveillance and Investigation Review Panel.
4. When a ruling of a judge that an order for a measure under the present Chapter or its implementation is unlawful is final, it is binding on the Surveillance and Investigation Review Panel.
5. If a person considers that he or she has been the subject of a measure under the present Chapter, which is unlawful, or an order for a measure under the present Chapter, which is unlawful, he or she may submit a complaint to President of the Basic Court who shall, if a violation of the law is alleged, appoint a Surveillance and Investigation Review Panel for adjudication.
6. If on adjudicating on a complaint the Surveillance and Investigation Review Panel finds that a measure under the present Chapter is unlawful or an order for such measure is unlawful, it may decide to:
 - 6.1. terminate the order, if it is still in force;
 - 6.2. order the destruction of the collected materials; and/or
 - 6.3. award compensation to the subject or subjects of the order.

Article 99
Assistance of other Authorities to Implement Measures

The police may, where appropriate, seek the assistance of other authorities responsible for maintaining law and order and a secure environment in Kosovo in connection with the implementation of measures under the present Chapter.

Article 100
Surveillance and Investigation for Customs and Related Services

The provisions of the present Chapter are without prejudice to the powers granted to official persons under the applicable law to conduct surveillance and investigation when providing customs and other related services.

4. INITIATION OF CRIMINAL PROCEEDINGS
A. Initiation of Investigative Stage

Article 101
Initiation of Criminal Proceedings by Investigative Stage, or Indictment

1. If the police or other government agency reports to the state prosecutor a reasonable suspicion of a criminal offence the state prosecutor may initiate the investigatory stage of a criminal proceeding under Article 102 of this Code.
2. If the police or any other person reports to the state prosecutor a reasonable suspicion of a criminal offence or criminal offences, none of which are punishable by fine and/or imprisonment of more than three years, and the state prosecutor determines that a well-grounded suspicion exists to support an indictment, the state prosecutor may file an indictment under Article 241 of this Code.
3. At any time a suspect subject to this Article may plead guilty to an indictment in accordance with Article 233 of this Code.

Article 102
Initiation of Investigation

1. The state prosecutor may initiate an investigation on the basis of a police report or other sources, if there is a reasonable suspicion that that a criminal offence has been committed, is being committed or is likely to be committed in the near future which is prosecuted *ex officio*.
2. The investigation is initiated by a decision by the state prosecutor under Article 104 of this Code.

Article 103
General Principles of Investigative Stage

1. During the investigative stage the state prosecutor shall ascertain not only inculpatory but also exculpatory circumstances and evidence, and shall ensure that evidence, which may not be available at the main trial, is taken.
2. The aim of a investigation is to collect evidence and data necessary for deciding whether to file an indictment or to discontinue proceedings and to collect evidence which might be impossible or difficult to reproduce at the main trial.
3. Every person against whom the state prosecutor has a reasonable suspicion that he or she has committed a criminal offence shall be named as a defendant in the decision to initiate a investigation. Every defendant named in the decision shall be entitled to the rights of a defendant under the present Code.

4. If the state prosecutor becomes aware of evidence of the commission of another criminal offence or another suspect during a investigation, the state prosecutor may initiate a new investigation of the new criminal offence or suspects, or may amend the decision of or expand the existing investigation. The state prosecutor shall inform the pre-trial judge about new or amended decisions.

Article 104

Decision to Initiate Investigative Stage

1. The investigation shall be initiated by a decision of the state prosecutor. The decision shall specify the person or persons against whom an investigation will be conducted, the date and time of the initiation of the investigation, a description of the act which specifies the elements of the criminal offence, the legal name of the criminal offence, the circumstances and facts warranting the reasonable suspicion of a criminal offence, whether any technical or covert measures of investigation or surveillance had been authorized and the evidence and information already collected. A stamped copy of the ruling on the investigation shall be sent without delay to the pre-trial judge.
2. The result of initial steps by police or gathering of information shall be made part of the file on the investigation.
3. Once a decision under this Article is issued, the investigation shall be conducted and supervised by the state prosecutor.
4. The state prosecutor may undertake investigative actions or authorize the police to undertake investigative actions relating to the collection of evidence.
5. The investigation shall be conducted only in relation to the criminal offence and the defendant specified in the decision on the initiation of the investigation or in an amended decision.
6. A ruling under this Article may be accompanied by a request for a court order under Article 105 of this Code.
7. A ruling under this Article may be accompanied by a request for a court order under Chapter XVIII of this Code.
8. A ruling under this Article may be accompanied by an order for temporary freezing of assets in compliance Chapter XVII of this Code.

B. Search and Confiscation

Article 105

Search and Temporary Sequestration

1. A defendant may voluntarily consent in writing to the search of property under this chapter. Items found during a search under this paragraph may be temporarily sequestered and are admissible at the main trial and other proceedings.
2. Items found during a search to which the defendant did not consent may not be temporarily sequestered and are inadmissible, unless otherwise ordered under this Article.
3. Upon application by the state prosecutor at any time during the investigative

stages, the pretrial judge may order a search of a house and other premises and property of a defendant if there is a grounded suspicion that such person has committed a criminal offence and there is a grounded cause that the search will result in the arrest of such person or in the discovery and sequestration of evidence important for the criminal proceedings.

4. The pretrial judge may order a search of a house and other premises and property of a person not suspected of a criminal offence only in cases in which:
 - 4.1. there is a sound probability that the search will result in the arrest of a defendant; or
 - 4.2. it is necessary to preserve evidence of a criminal offence or to sequester specific objects which cannot be preserved or obtained without the search and there is a sound probability that such evidence or objects are in the premises or property to be searched.
9. The pretrial judge may order a personal search of a specific person if there is a sound probability that the search will result in the discovery of traces or sequestration of evidence of a criminal offence.
10. A search order shall be issued in writing upon a written application of the state prosecutor or, in exigent circumstances, the authorized police officer.
11. A search order shall contain: an identification of the person or place against whom the order is directed, a designation of the criminal offence in relation to which the order has been issued, an explanation of the basis for the grounded cause in accordance with the present Article, a description of the objects sought in the search, a separate description of the person, premises or property to be searched and other information relevant for the implementation of the search.
12. If there is grounded cause to search an electronic device, including but not limited to computers, cameras, mobile telephones, mobile electronic devices or mobile electronic storage devices, the search order must authorize the temporary sequestration of such device or devices and shall describe the type of electronic files for which the authorized police officer may search and copy.
13. The provisions of this and other Articles that refer to the search of a house and other premises and property shall also apply mutatis mutandis to searches of concealed spaces in vehicles and other means of transportation.

Article 106

Limitations on Execution of Search Order

1. A search order shall be executed by the authorized police officers with the necessary assistance of other police officers within forty-eight (48) hours of the issuance of the order.
2. The authorized police officers shall, as a rule, execute the search order between the hours of 06:00 and 22:00. Exceptionally, a search may be conducted outside these hours if it began within them and is not completed by 22:00 or if there are reasons under Article 110 of the present Code, or if the pretrial judge determines that a delay could lead to the escape of the person being sought or to the destruction of traces or evidence of a criminal offence and specifically permits a search outside the hours provided for by the present paragraph.

Article 107

Procedure before the Initiation of Search and Rights of Defendant

1. Before beginning the search, the authorized police officers shall provide the order to the person against whom the order is directed and such person shall be informed that he or she has the right to contact a lawyer who has the right to be present during the search.
2. If the person requests a lawyer to be present during the search, the authorized police officers shall postpone the search until the arrival of the lawyer, but no longer than two (2) hours after the lawyer has been informed about the search. In the meantime the authorized police officers may restrict the movement of the person concerned and other persons in the premises that are about to be searched. In exigent circumstances the authorized police officers may begin the search even before the expiry of the time limit for the lawyer to arrive.
3. Before beginning the search the authorized police officers shall ask the person to surrender voluntarily the person or the objects sought.
4. Exceptionally, a search may start without the prior presentation of the order or the prior request for surrender of the person or objects sought if armed resistance is expected, or if the effectiveness of the search is likely to be undermined if it is not conducted instantly and without warning, or if a search is conducted on public premises.

Article 108

Limitations on Searches

1. During a search of a house or other premises the person whose house or other premises and property is being searched or a representative of such person shall have the right to be present.
2. During a search of a person, a house or other premises, two (2) adult persons shall be required to be present as witnesses. Before the search begins the witnesses shall be warned to observe closely how the search is conducted, and shall be informed of their right to make objections, if any, to the contents of the record of the search before it is signed.
3. A search of a female person shall only be carried out by a female police officer and only female persons shall be witnesses.
4. The search of residential premises shall be carried out considerately, to avoid disturbing the peace. Locked premises, furniture or other objects may be opened forcibly only if their owner is not present or refuses to open them voluntarily. In opening these objects care should be taken to avoid unnecessary damage.
5. A search of a person may include an intimate search which shall be conducted by a qualified medical doctor or nurse in accordance with the rules of medical science and with full respect for the person's dignity.
6. If a search is conducted on the premises of a public entity, the head thereof shall be invited to attend the search.
7. A record shall be made of each search of a person, house or premises. Such record shall be signed by the person who has been searched or whose premises or

property have been searched, his or her lawyer if present during the search and persons whose presence is obligatory. When conducting a search, only the objects and documents related to the purpose of that particular search may be confiscated. The objects and documents confiscated shall be entered and accurately described in the record, and the same shall be indicated in the receipt, which shall be immediately given to the person whose objects or documents have been confiscated.

8. Objects and documents confiscated in the search shall be maintained in appropriate containers or transparent plastic bags and the authorized police and state prosecutor shall maintain a record of the chain of custody for each object or set of documents.

Article 109

Contraband or Evidence Unrelated to Basis of Search

If during a search of a person, house or premises objects are found which are not related to the criminal offence which justified the search but which point to another criminal offence prosecuted ex officio, these objects shall also be described in the record and confiscated, and a receipt of confiscation shall immediately be issued. A notification thereof shall immediately be sent to the state prosecutor so that he or she can initiate criminal proceedings or amend the existing criminal proceedings. The objects confiscated shall be returned immediately if the state prosecutor finds that there are no grounds for criminal proceedings, nor any other legal ground for confiscating the objects.

Article 110

Grounds for Searches without Court Order

1. Police officers may, if necessary and to the extent necessary, enter the house and other premises of a person and conduct a search without an order of the competent judge if:
 - 1.1. the person concerned knowingly and voluntarily consents to the search;
 - 1.2. a person is calling for help;
 - 1.3. a perpetrator caught in the act of committing a criminal offence is to be arrested after a pursuit;
 - 1.4. reasons of safety of people and property so require to avoid direct and serious risk from persons or property; or
 - 1.5. a person against whom an order for arrest has been issued by the court is to be found in the house or other premises.
2. In the instances under paragraph 1 of the present Article a record shall not be made if no search has been conducted, but the person shall be given an official note indicating the reason for the entry of the house or other premises.
3. Exceptionally, in exigent circumstances, if a written order for a search cannot be obtained in time and there is a substantial risk of delay which could result in the loss of evidence or of danger to the lives or health of people, the authorized police officers may begin the search pursuant to the verbal permission of the competent judge.

4. Exceptionally, a search may be conducted without witnesses being present if their presence cannot be secured immediately and it would be dangerous to delay the beginning of the search. The reasons for conducting the search without the presence of witnesses shall be noted in the record.
5. The police may conduct a search of a person without an order or the presence of witnesses when executing a ruling to compel a person to appear or when making an arrest, if there is a grounded suspicion that the person possesses a weapon or a tool for attack or that he or she will dispose of, hide or destroy objects which should be taken from him or her as evidence in criminal proceedings.
6. If the police have conducted a search without a written judicial order they shall send a report to that effect to the state prosecutor and the competent judge, if a judge is assigned to the case, no later than twelve (12) hours after the search in order to obtain retroactive approval of the court for the search, in compliance with Constitutional provisions.

Article 111 **Admissibility of Evidence from Search**

1. Evidence obtained by a search shall be inadmissible if:
 - 1.1. the evidence obtained by a search without a court order shall be inadmissible, if the search is not approved retroactively by the court, in compliance with the provisions of the Constitution;
 - 1.2. the search was executed without an order from a competent judge in breach of the provisions of the present Code;
 - 1.3. the order of the competent judge was issued in breach of the procedure provided for by the present Code;
 - 1.4. the substance of the order of the competent judge was in breach of the requirements of the present Code;
 - 1.5. the search was implemented in breach of an order of the competent judge;
 - 1.6. persons whose presence is obligatory were not present during the search; or
 - 1.7. the search was conducted in breach of Article 108 of this Code.

Article 112 **Temporary Sequestration**

1. Objects that can temporarily be sequestered are objects which might be evidence in the criminal proceedings, objects or property that facilitated the criminal offence, or objects or property which constitutes a material benefit obtained from the commission of a criminal offence and under the law may be sequestered.
2. Objects, property, evidence or money may be subject to temporary restraint upon the order of the state prosecutor that shall last no more than five (5) days if the authorized police officers become aware of such objects, property, evidence or money during a lawful search or arrest. The state prosecutor shall request a court order from the pretrial judge that complies with Paragraph 3 of this Article.
3. A state prosecutor may request an order from the pretrial judge for objects, property, evidence or money to be temporarily sequestered. Such a request must

describe the objects, property, evidence or money with specificity and shall describe how the objects may be evidence of a criminal act, how the object, property or money may facilitate the criminal offence, or how the objects, property or money constitute a material benefit obtained from the commission of a criminal offence. Objects, property, evidence or money may be temporarily sequestered only upon a court order.

4. Objects that are temporarily sequestered shall be photographed and maintained in appropriate containers or transparent plastic bags and the authorized police and state prosecutor shall maintain the photographic record and a record of the chain of custody for each object or set of documents.
5. Weapons, automobiles, airplanes or other large objects that are temporarily sequestered shall be photographed and maintained in appropriate secure areas and the authorized police and state prosecutor shall maintain the photographic record and a record of the chain of custody for each object or set of documents.
6. Buildings or immovable property that are temporarily sequestered shall have notices placed on the building or immovable property that advise the public that the property is subject to temporary sequestration, that trespassing is not allowed, and that trespassers may be subject to arrest.
7. Monetary bills or coins that are temporarily sequestered shall be photographed and maintained in a safe and the authorized police and state prosecutor shall both maintain the photographic record and a record of the chain of custody of the monetary bills or coins.
8. Money held in a bank account that is temporarily sequestered shall be maintained in a bank account subject to the authority of the court.
9. Objects and property that are temporarily sequestered are under the supervision and control of the state prosecutor. The state prosecutor may delegate the custody and control to an authorized police officer for objects and property temporarily sequestered under paragraphs 5, 6 and 8 of this Article.
10. When objects are confiscated, an indication shall be given of where they were found and they shall be described. If necessary, the verification of their identity shall be secured in some other way. A receipt of sequestration shall be issued for the objects sequestered.
11. If the person or entity who maintains supervision of the object, property, evidence or money that is subject to the order by the pretrial judge under this Article refuses to deliver the object, property, evidence or money to the authorized police officer responsible for executing the order, that person or entity shall be subject to a fine by the pretrial judge of up to fifty percent (50%) of the value of the object, property, evidence or money that is in dispute. The person or entity subject to such a fine may appeal the fine or may negate the fine by complying with the order by the pretrial judge.

Article 113

Items not Subject to Temporary Sequestration

1. The following objects shall not be subject to temporary sequestration:
 - 1.1. written communications between the defendant and persons who, according

- to the present Code, may not testify under Article 126 of the present Code, or are exempted from the duty to testify and have refused to do so in accordance with Article 127 of the present Code;
- 1.2. notes by persons under Article 126 of the present Code concerning confidential information entrusted to them by the defendant; and
 - 1.3. other objects covered by the rights of the persons referred to in Articles 126 and 127 of the present Code.
2. These restrictions shall apply only if these objects are in the custody of a person who cannot testify under Article 126 of the present Code or is exempted from the duty to testify and has refused to do so under Article 127 of the present Code. Objects covered by the rights of persons referred to in Article 127 paragraph 1 subparagraph 1.5 of the present Code shall also not be subject to sequestration if they are in the custody of a hospital or other medical institution. The restrictions shall not apply to persons who may not testify under Article 126 of the present Code or are exempted from the duty to testify and have refused to do so under Article 127 of the present Code, if such persons are suspected of incitement or complicity or obstruction of justice or receiving stolen goods or where the objects concerned have been obtained by a criminal offence or have been used or are intended for use in perpetrating a criminal offence or where they emanate from a criminal offence.

Article 114 **Limitations on Disclosure of Documents**

1. Public entities may request the pretrial judge to delay or reconsider an order to disclose files or documents if they consider that disclosure of their contents would harm the general interest. A pretrial judge must balance the harm to the general interest with the public interest in prompt adjudication of criminal proceedings, the human rights of the defendant or the rights of the injured party. There shall be a presumption in favor of disclosure of the files or documents of public entities. The public entity may object to a review panel the refusal of the pretrial judge to delay or reconsider his or her order. The review panel shall have the final decision.
2. Business organizations and legal persons may request that information concerning their business be not published if it is sensitive or contains the private information of third-parties.

Article 115 **Permanent Confiscation of Temporarily Confiscated Items**

1. Objects, property, evidence or money that are temporarily sequestered under Article 112 of this Code shall, at the end of the criminal proceedings, be returned to the owner or possessor under Article 116 of this Code, except if actions are taken under Paragraph 2 of this Article or another action permitted under law would provide a basis not to return the objects, property, evidence or money.
2. The single trial judge or trial panel shall order the items to be permanently sequestered in accordance with the law if the state prosecutor:

- 2.1. describes in the Indictment those objects, properties, evidence or money that should be subject to permanent sequestration,
 - 2.2. if the objects, property, evidence or money that is temporarily sequestered is proven during the main trial to be have facilitated the criminal offence or constitute a material benefit obtained from the commission of a criminal offence; and
 - 2.3. under the law they may be confiscated.
3. Objects, property, or evidence that is permanently sequestered shall be sold and the proceeds used for restitution to the injured parties and any remainder transferred to the budget.
 4. Money that is permanently sequestered shall be used for restitution to the injured parties and any remainder transferred to the budget.
 5. Weapons or contraband shall be destroyed with the exception of items that may be used by the society after they no longer have evidentiary value for the main trial or appeal, in accordance with Article 282, paragraph 3 of this Code.
 6. Vehicles or airplanes that are permanently sequestered may be transferred to the use of the Government of Kosovo upon request by the state prosecutor, if the transfer does not diminish the ability of the injured parties to obtain restitution.

Article 116

Return of Temporarily Sequestered Items

1. Objects temporarily confiscated during criminal proceedings shall be returned to the owner or possessor if the proceedings are suspended or terminated and there are no grounds for them to be sequestered.
2. If the suspension of the criminal proceedings is due to the failure of the defendant to appear or the mental incapacity of the defendant, or if there is a reasonable likelihood that a suspended investigation will be likely to resume, the state prosecutor may request and the single trial judge or presiding trial judge may permit an additional deadline in the return of the sequestered objects upon good cause.

Article 117

Objects whose Ownership is not Claimed

1. If an object found on the defendant belongs to another person who is not known, the body conducting the criminal proceedings shall describe that object and publish the description on the notice-board of the municipal assembly in the territory where the defendant lives and in the territory where the criminal offence was committed. In the notice the owner shall be summoned to come forward within a period of one (1) year from the day of publication of the notice, because otherwise the object will be sold. The money obtained by the sale shall be transferred to the budget.
2. If the objects are of considerable value, the notice may also be published in the daily newspapers.
3. If the object is perishable or if keeping it involves considerable expense, it shall be

sold according to the provisions applicable to enforcement proceedings and the proceeds shall be transferred to a bank account under the control of the Court for safekeeping.

4. Paragraph 3 of the present Article shall also apply to objects belonging to a defendant who has fled or to an unknown criminal offender.

Article 118 Unclaimed Items

1. If within one (1) year no person claims the object or the proceeds from its sale, the court shall render a ruling that the object shall become the property of the competent public entity or that the proceeds from the sale shall be transferred to the budget.
2. The owner shall have the right to seek the restitution of the object or of the proceeds from its sale in civil litigation. The period of statutory limitation for this right shall run from the day of publication of the notice.

C. Taking Pre-Indictment Evidence

Article 119 Taking of Evidence Permitted during Investigative Stage

1. Once an investigation has been initiated, the state prosecutor shall interview and take pretrial testimony from witnesses, authorize the taking of expert testimony and reports, and shall collect other evidence as authorized by law.
2. If, during the investigation, a suspect or defendant cooperates with the state prosecutor, the state prosecutor may initiate a new investigation based upon that cooperation.
3. During the investigation, the state prosecutor may order or request measures under Article 88 of this Code, which shall be applied *mutatis mutandis*.
4. During the investigation, the defendant or defence counsel may request the state prosecutor to take or preserve evidence that may or could be reasonably expected to be exculpatory.
5. During the investigation, the injured party may request the state prosecutor to take or preserve evidence that may or could be reasonably expected to demonstrate the harm caused by the criminal offence, the pain and suffering by the victim, or other costs associated with the criminal offence.

Article 120 Identification of Persons or Objects

1. Where there is a need to establish whether a witness can recognize a person or an object, such witness shall first be asked to provide a description of and indicate the distinctive features of such person or object.
2. The witness shall then be shown the person with other persons unknown to the witness, or their photographs, or the object with other objects of the same kind, or their photographs.

3. The witness shall be instructed that he or she is under no obligation to select any person or object or photograph, and that it is just as important to state that he or she does not recognize a person, object or photograph as to state that he or she does.
4. A record shall be kept of the description obtained under Paragraph 1 of this Article, the time and date of that description, and those present when the description was given. A record shall also be kept of the identification made under Paragraph 2 of this Article, including the time and date of that identification and photographs of those other persons or objects.
5. The identification of a person or object under this Article may be overseen by the police or by the state prosecutor. The record made under Paragraph 3 of this Article shall be entered into the case file.

Article 121
Obtaining Evidence Prior to Pretrial Testimony

1. The state prosecutor shall obtain all relevant documentary evidence in accordance with the law, if possible prior to taking pretrial testimony. Such documentary evidence shall include, but is not limited to:
 - 1.1. passport, identification cards, or records of border entry,
 - 1.2. financial records,
 - 1.3. surveillance records or photographs,
 - 1.4. records of land ownership,
 - 1.5. records of automobile ownership,
 - 1.6. records of corporations or business entities,
 - 1.7. electronic documents, such as email, text messages, or photographs,
 - 1.8. medical Records,
 - 1.9. notes, diaries, or calendars, or
 - 1.10. any other document that is lawfully obtained under this Criminal Procedure Code.
2. The state prosecutor shall lawfully obtain all tangible evidence, if possible prior to taking relevant pretrial testimonial. Such tangible evidence shall include, but is not limited to:
 - 2.1. tangible evidence obtained at the scene of the crime,
 - 2.2. tangible evidence seized from the search of the premises of the Defendant,
 - 2.3. tangible evidence seized from the search of the person of the Defendant prior to or during his or her arrest,
 - 2.4. photographs of or forensic reports about tangible evidence, or
 - 2.5. any other tangible evidence lawfully obtained under this Criminal Procedure Code whose existence and form provide evidence relevant to the investigation.

Article 122
Taking and Preserving Information or Evidence from Witnesses

1. The state prosecutor may interview a witness under Article 131 of this Code prior to taking pretrial testimony, or he or she may instruct the police to conduct the interview.

2. The state prosecutor may schedule pretrial testimony for a witness or defendant under Articles 132-133 of this Code.
3. If the state prosecutor suspects that a witness may be unavailable in the future, either because of illness, impending death or likelihood of leaving Kosovo, he or she may request the pre-trial judge to conduct a Special Investigative Opportunity under Article 149 of this Code.
4. Evidence of an expert analysis can be presented with a report under Article 138 of this Code or clarified with pre-trial expert testimony.
5. During the formal investigation, the defendant or defence counsel may request the state prosecutor to take or preserve pretrial testimony that may or could be reasonably expected to be exculpatory.
6. During the investigation, the victim, victim's representative or victim advocate may request the state prosecutor to take or preserve pretrial testimony that may or could be reasonably expected to demonstrate the harm caused by the criminal offence, the pain and suffering by the victim, or other costs associated with the criminal offence.

Article 123

Pretrial Interviews, Pretrial Testimony and Special Investigative Opportunities

1. During the investigation stage, the evidence from witnesses and expert witnesses may be taken in one of three kinds of sessions: pre-trial interviews, pre-trial testimony or special investigative opportunity.
2. The pre-trial interview is conducted by the state prosecutor. A record of the interview will be made and shall be placed in the file. Evidence obtained during the pre-trial interview may be used as a basis to substantiate pre-trial investigative orders, orders for detention on remand, and indictments. Evidence obtained during the pre-trial interview may not be used as direct evidence during the main trial, but may be used during cross-examination to impeach witnesses if the witness has testified materially differently from the evidence given by the witness during the pre-trial interview.
3. The pre-trial testimony shall be conducted by the state prosecutor in accordance with Articles 132-133 of this Code. Evidence from the pre-trial testimony shall be audio-recorded, audio and video-recorded or transcribed verbatim. Evidence obtained during the pre-trial testimony may be used as a basis to substantiate pre-trial investigative orders, orders for detention on remand, and indictments. Pre-trial testimony shall be admissible during the main trial for cross-examination of the same witness, and may be used as direct evidence during the main trial if the witness is unavailable due to death, illness, assertion of privilege or lack of presence within Kosovo, but may not be used as the sole or as a decisive inculpatory evidence for a conviction.
4. The Special Investigative Opportunity shall be conducted before a three-judge panel led by the pretrial judge in accordance with Article 149 of this Code. Evidence from the Special Investigative Opportunity shall be audio-recorded, audio and video-recorded or transcribed verbatim. Evidence obtained during the Special Investigative Opportunity may be used as a basis to substantiate pre-trial

investigative orders, orders for detention on remand, and indictments. Evidence from a Special Investigative Opportunity shall be fully admissible during the main trial if at least one of the judges on the judicial panel which heard the testimony is a judge on the main trial pane and if the witness is unavailable due to death, illness, assertion of privilege or lack of presence within Kosovo. If the main trial panel does not include at least one of the judges from the Special Investigative Opportunity Panel, the evidence shall be treated as evidence from pre-trial testimony under Paragraph 3 of this Article.

5. Statements provided by a defendant in any context, if given voluntarily and without coercion, are admissible during the main trial against that defendant, but not co-defendants. Such statements may not serve as the sole or as a decisive inculpatory evidence for a conviction.
6. After issuing an expert report, expert witnesses may be interviewed, provide pretrial testimony or special investigative opportunity.

Article 124 Summoning Witnesses

1. A person shall be summoned as a witness if there is a likelihood that he or she may give information about the criminal offence, the perpetrator and important circumstances relevant for the criminal proceedings.
2. The victim may be examined as witnesses.
3. Any person summoned as a witness has a duty to respond to the summons and, unless otherwise provided for by the present Code, to testify

Article 125 Warnings Required to be Read to Witnesses, Expert Witnesses, Defendants and Cooperative Witnesses

1. At the beginning of the pretrial interview, pretrial testimony session, or Special Investigative Opportunity the state prosecutor shall read the following warning to the witness: "This is a criminal investigation. You are obligated to testify. You are obligated to tell the truth. If you do not tell the truth, you might be prosecuted under Article 390 or 391 of the Criminal Code. If you believe that you may incriminate yourself as a result of answering a question, you may refuse to answer. If you believe that you need the assistance of an attorney as a result of answering a question, you may hire and consult an attorney. This criminal investigation seeks the truth and the most accurate recollection of the facts that you can provide. If you do not understand the question being asked, you should request that the question be asked differently. If you believe that there is a document or other evidence that may help you answer a question more accurately or remember the facts more vividly, you are obligated to tell us. If you require assistance, translation, or a reasonable and brief break from this session, you should ask. Do you understand these rights?"
2. At the beginning of the pretrial interview, pretrial testimony session, or Special Investigative Opportunity the state prosecutor shall read the following warning to

the expert witness: "This is a criminal investigation of acts about which you have specialized knowledge. You are obligated to testify. You are obligated to tell the truth. If you do not tell the truth, you might be prosecuted under Article 390 or 391 of the Criminal Code. You are obligated to explain the steps you took to obtain the specialized knowledge you have in this case. This criminal investigation seeks the truth and the most accurate recollection of the facts that you can provide. If you do not understand the question being asked, you should request that the question be asked differently. If you believe that there is a document or other evidence that may help you answer a question more accurately or remember the facts more vividly, you are obligated to tell us. If you require assistance, translation, or a reasonable and brief break from this session, you should ask. Do you understand these rights?"

3. At the beginning of the pretrial interview, pretrial testimony session, or Special Investigative Opportunity the state prosecutor shall read the following warning to the defendant: "This is a criminal investigation of acts you may have committed. You have the right to give a statement but you also have the right to remain silent and not answer any questions, except to give information about your identity. You have the right not to incriminate yourself. If you choose to give a statement or answer questions, you will not be under oath. The information you provide may be used as evidence before the court. If you need an interpreter, one will be provided at no cost to you. If you believe that you may incriminate yourself or a close relative as a result of answering a question, you may refuse to answer. You have a right to a defence attorney and to consult with him or her prior to and during the examination. If you do not understand the question being asked, you should request that the question be asked differently. If you require assistance, translation, or a reasonable and brief break from this session, you should ask. If you do not understand these rights, you should consult with your attorney."
4. At the beginning of the pretrial interview, pretrial testimony session, or Special Investigative Opportunity the state prosecutor shall read the following warning to anyone who has been declared a cooperative witness: "This is a criminal investigation of acts of which you have direct knowledge. You have agreed to cooperate with this investigation. If you invoke your right to remain silent, you will no longer be a cooperating witness. If you do not tell the truth, that may be considered in your sentencing and you might be prosecuted under Article 392 of the Criminal Code. Your defence attorney is present. If you believe that you need to consult your attorney, you may. This criminal investigation seeks the truth and the most accurate recollection of the facts that you can provide. If you do not understand the question being asked, you should request that the question be asked differently. If you believe that there is a document or other evidence that may help you answer a question more accurately or remember the facts more vividly, you should tell us. If you require assistance, translation, or a reasonable and brief break from this session, you should ask. Do you understand these rights?"
5. Warnings given under this Article shall be entered into the record of the pretrial testimony session.
6. Warnings given under this Article shall be submitted in writing to the defendant in a language that he or she understands, together with the summons for testimony.

7. Warnings given under this Article shall be entered into the record of the preliminary testimony session.

Article 126
Privileged Witnesses

1. The following persons may not be examined as witnesses:
 - 1.1. a person who by giving testimony would violate the obligation to keep an official or military secret, until the competent body releases him or her from that obligation;
 - 1.2. a defense counsel, on matters confided to him or her by the defendant, unless the defendant himself or herself so requests; and
 - 1.3. a co-defendant, while joint proceedings are being conducted.

Article 127
Witnesses Exempted from Duty to Testify

1. The following persons are exempted from the duty to testify:
 - 1.1. the spouse or extra-marital partner of the defendant, unless proceedings are conducted for a criminal offence punishable by imprisonment of at least five (5) years and he or she is an injured party of that criminal offence;
 - 1.2. a person who is a close blood relative of the defendant spouse or extra-marital partner: antecedents, descendants, sisters, brothers, uncles, aunts, children of sisters and brothers; or close affinity: mother-in-law, father-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, godfather, godmother, stepmother and stepfather; unless proceedings are conducted for a criminal offence punishable by imprisonment of at least ten (10) years or he or she is a witness of a criminal offence against a child who is cohabiting with or is related to him or her or to the defendant;
 - 1.3. the adoptive parent or adopted child of the defendant, unless proceedings are conducted for a criminal offence punishable by at least ten (10) years or he or she is a witness of a criminal offence committed against a child who is cohabiting with or is related to him or her or the defendant;
 - 1.4. a religious confessor on matters confessed to him or her by the defendant or by another person;
 - 1.5. a lawyer, a victim advocate, medical doctor, social worker, psychologist or another person, on what he or she came to know in the exercise of his or her profession, if bound by duty to keep secret what he or she learns of in the exercise of his or her profession; and
 - 1.6. a journalist or an editor who works in the media or one of his or her assistants in accordance with applicable law.
2. A person referred to in paragraph 1 subparagraph 1.4, 1.5 or 1.6 of the present Article cannot refuse to testify when there is a legal basis for releasing him or her from the duty of maintaining confidentiality.
3. The competent authority conducting the proceedings shall be bound to instruct the persons referred to in paragraph 1 of the present Article, before each examination

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- or upon establishing their relation to the defendant, of their right not to testify. The instruction and the reply thereto shall be entered in the record.
4. A child who, in view of his or her age and stage of intellectual development, cannot understand the meaning of the right to refuse to testify may not be examined as a witness, unless the court finds that he or she is capable of understanding that he or she is undergoing the examination in order to tell the truth.
 5. A witness entitled to refuse to testify against one of the defendants shall be exempt from the duty to testify against other defendants if his or her testimony cannot, in view of the nature of the matter, be confined solely to the other defendants.

Article 128 Circumstances when Statement is Inadmissible

1. A statement of a person who has been examined as a witness shall be inadmissible if:
 - 1.1. the person may not be examined as a witness;
 - 1.2. the person is exempted from the duty to testify, but he or she has not been instructed about that right or has not explicitly waived that right, or the instruction and the waiver were not entered in the record;
 - 1.3. the person is a child who could not understand the meaning of his or her right to refuse to testify: or
 - 1.4. the testimony was extorted by force, threat or a other prohibited manner.

Article 129 Witness is not Obligated to Incriminate Self or Close Relative

A witness is not obliged to answer individual questions by which he or she would be likely to expose him or herself or a close relative to serious disgrace, considerable material damage or criminal prosecution. The court or state prosecutor shall notify the witness of this right.

Article 130 General Requirements of Pretrial Interviews, Pretrial Testimony or Special Investigative Opportunity

1. A witness shall be examined separately and without the presence of other witnesses. A witness shall answer questions orally.
2. Subsequently, the witness shall be asked to state his or her first name and surname, the name of his or her father and mother, personal identity number, occupation, place of current residence, place of birth, age and relation to the defendant and the injured party. The witness shall be warned of the obligation to report to the court any change in address or place of current residence.
3. The provision in paragraph 2 of the present Article shall not apply when it conflicts with measures for the protection of injured parties and witnesses as provided for by the present Code.

4. Police officers are obligated to give personal information under Paragraph 3 of this Article but shall be informed of their right to give the address of their police station rather than the address of their current residence.
5. A person who has not reached the age of eighteen (18) years, especially if that person has suffered damage from the criminal offence, shall be examined considerately to avoid producing a harmful effect on his or her state of mind. If necessary, a child psychologist or child counselor or some other expert should be called to assist in the examination of such person.

Article 131 Pretrial Interview

1. During the investigative stage, the state prosecutor may summon witnesses, victims, cooperative witnesses, protected witnesses and experts to provide information in a pre-trial interview relevant to the criminal proceedings.
2. The state prosecutor may permit the defense attorney, victim or victim advocate to participate in the pre-trial interview.
3. The state prosecutor may ask the person being interviewed about documentary or physical evidence during the interview. The documentary or physical evidence shall be identified clearly in any recording, transcript or report of the interview.
4. The pre-trial interview may be audio-or audio-video recorded, transcribed verbatim or summarized into a report. The recording, transcript or report shall comply with Chapter XI and shall be included in the case file.
5. A person being interviewed under this Article may later testify in pre-trial testimony or in a Special Investigative Opportunity.

Article 132 Pretrial Testimony

1. During the investigative stage, the state prosecutor shall summon witnesses, victims, experts and the defendant or defendants to provide pre-trial testimony relevant to the criminal proceedings.
2. During the investigative stage, the state prosecutor shall interview protected witnesses and cooperative witnesses while ensuring the appropriate safety and security for the protected or cooperative witnesses.
3. A witness shall be summoned by serving a written summons which shall indicate: the name and surname and occupation of the witness, when and where he or she is to appear, the criminal case in connection with which he or she is summoned, an indication that he or she is summoned as a witness and the consequences of unjustifiable non-compliance with the summons.
4. A person under the age of sixteen (16) years shall be summoned as a witness through his or her parents or legal representative, except where that is not possible for reasons of urgency or other circumstances.
5. A witness who by reason of old age, illness or serious disability is unable to comply with the summons may be examined out of court.
6. The state prosecutor shall give five (5) days written notice to the defendant,

defence counsel, injured party and victim advocate of the date, time and location of the pre-trial testimony. A copy of the notice shall be placed into the file.

7. Failure of the defendant, defence counsel, injured party or victim advocate to participate in a session of pretrial testimony after receiving notice under Paragraph 6 of this Article, without justification, shall prevent that same defendant, defence counsel, injured party or victim advocate from objecting to the admissibility of the testimony at a later stage of the criminal proceeding. These consequences shall be given in the notice provided in Paragraph 6 of this Article.

Article 133

Requirements of Pretrial Testimony Session

1. A record of the pre-trial testimony session shall be kept in accordance with Chapter XI of this Code. If the criminal proceeding is investigating a criminal offence punishable by a maximum imprisonment of three (3) years or more, the pre-trial testimony shall be audio-recorded, video-recorded or transcribed. If the criminal proceeding is investigating a criminal offence punishable by a maximum imprisonment of less than three (3) years, the pre-trial testimony may be audio-recorded, video-recorded, transcribed or summarized in a record of the pre-trial investigation.
2. The state prosecutor shall first examine witnesses named by the state prosecutor
3. If the defense has requested pre-trial testimony be taken from a witness, the defense shall first examine those defense witnesses.
4. If the victim or victim advocate has requested pre-trial testimony be taken from a witness, the victim advocate shall first examine those witnesses.
5. Each party shall be given an opportunity to examine the witness who has been examined by the other party.
6. Article 154 of the present Code shall apply *mutatis mutandis* to the examination of witnesses.
7. Witnesses shall be questioned about relevant documentary and physical evidence.
8. Witnesses may be confronted in compliance with Article 334 of this Code.
9. The injured party who is examined as a witness shall be asked whether he or she intends to pursue a property claim in criminal proceedings.

Article 134

Witnesses with Special Needs

If a witness is examined through an interpreter, or if a witness is deaf or mute, he or she shall be examined as provided for in Article 153 of the present Code.

Article 135

Failure of Witness to Appear

1. If a witness who has been duly summoned fails to appear and does not justify his or her failure to appear or if he or she leaves the place where he or she should be examined without permission or a valid reason, such witness may be compelled to

appear and may be fined up to two hundred fifty (250) EUR for each time he or she fails to appear.

2. If a witness appears when summoned but after being warned of the consequences refuses to give testimony without legal justification, he or she may be fined up to two hundred fifty (250) EUR. If even then the witness refuses to testify, he or she may be imprisoned. This imprisonment shall last for as long as the witness refuses to testify or until his or her testimony becomes unnecessary, or until criminal proceedings terminate, but shall not exceed one (1) month.
3. An appeal against a ruling imposing a punishment of a fine or imprisonment shall always be decided by the review panel. An appeal against the ruling on imprisonment shall not stay the execution of the ruling. The punishment under paragraphs 1 and 2 of the present Article shall be imposed by a judge.
4. Members of armed forces and the police may not be imprisoned but their refusal to testify shall be reported to their respective commands.

Article 136 **Expert Analysis**

1. For expert analysis to be used by the state prosecutor:
 - 1.1. there must be a question material to either the guilt or innocence of the defendant or the extent of harm caused by the criminal offence,
 - 1.2. the question in subparagraph 1.1 of this paragraph can only be answered by specialized or technical analysis,
 - 1.3. the expert must have specialized training or experience that is relevant and current,
 - 1.4. the expert must have analyzed lawfully obtained evidence,
 - 1.5. the expert's analysis must have used practices generally accepted within his or her field or has a scientific or technical basis, and
 - 1.6. the expert must write a report that summarizes his or her method of analysis and conclusions.
2. An expert may not express an opinion on the guilt or innocence of a defendant.
3. The defendant or defence counsel may request the state prosecutor to take expert testimony.
4. The victim or victim advocate may request the state prosecutor to take expert testimony.

Article 137 **Decision to Engage Expert**

1. Prior to engaging an expert, the state prosecutor shall issue a decision which:
 - 1.1. provides a specific written question or series of questions to the expert that is material to either the guilt or innocence of the defendant or the extent of harm caused by the criminal offence,
 - 1.2. specifies the expert and provide the basis for that expert's specialized expertise, including his or her education, experience and previous service as an expert to the court, and

- 1.3. provides the expert with access to the evidence needed for the specialized or technical analysis.
2. The defendant, defence counsel, victim or victim advocate may challenge the selection of an Expert based on his or her qualifications or potential conflict of interest by filing a challenge with the pre-trial judge. The pre-trial judge shall rule on the selection of an Expert within ten (10) days from the moment of engaging the expert.
3. If a particular kind of expert analysis falls within the domain of a professional institution or the expert analysis can be performed in the framework of a particular public entity, the task, especially if it is a complex one, shall as a rule be entrusted to such professional institution or public entity. The professional institution or public entity shall designate one or several experts to provide the expert analysis.
4. If possible and without creating a conflict of interest, experts shall be drawn from professional institutions or public entities which shall provide their expertise when called upon.
5. If the expert in question is employed with the Government of Kosovo in the capacity of a forensic expert or forensic examiner, he or she shall conduct the specialized analysis as authorized by law, court order or the order of a state prosecutor.
6. If no relevant expertise exists within professional institutions or public entities, an expert with the relevant expertise shall be hired and shall be compensated from public funds. The costs of the experts shall be added to the costs of the proceedings.
7. Without delay the expert shall conduct his or her analysis and shall submit to the state prosecutor a written expert report in compliance with Article 138 of this Code.

Article 138 **Report of the Expert**

1. An expert's report shall contain:
 - 1.1. the identity of the expert and the identity of the investigation.
 - 1.2. the question material to either the guilt or innocence of the defendant or the extent of harm caused by the criminal offence,
 - 1.3. the expert's specialized training or experience, why it is relevant, and how current the training or experience is,
 - 1.4. a description of the evidence that was analyzed,
 - 1.5. a description of the analysis, including relevant photographs, drawings, summary charts, x-rays, images, laboratory results or other relevant scientific or technical information,
 - 1.6. an explanation that the analytical practices are generally accepted within the expert's field or has a scientific or technical basis, and
 - 1.7. a conclusion with the expert's opinion answering the question in paragraph 2 of this Article, or explaining why the question could not be answered.
2. An expert may not express an opinion in his or her report on the guilt or innocence of a defendant.

3. An expert's report that does not comply with this Article shall not be admissible.
4. The expert's report shall be entered into the case file.
5. The expert's report shall be disclosed to the defendant or defence counsel, and to the injured party no less than five (5) days prior to a session of pre-trial testimony by that expert, but no later than ten (10) days after the report was received from the expert by the state prosecutor.

Article 139

Orders Necessary for Evidence to be Examined by Expert

1. A post-mortem examination shall be done by a qualified medical examiner upon the order of the state prosecutor. An autopsy may not be entrusted to the physician who treated the deceased. The Ministry of Justice shall issue guidelines and standards for post-mortem examinations.
2. Toxicological laboratory analysis of samples taken from a victim may be ordered by a state prosecutor.
3. If a defendant is unwilling to consent in writing to give a sample of blood, body tissue, DNA or other similar material or is unwilling to consent in writing to undergo a physical examination of injuries as required by an investigation, the state prosecutor shall request an order from the pretrial judge requiring the necessary sample or examination in accordance with Article 144 of this Code.
4. Samples taken pursuant to an order under Paragraph 3 of this Article may be subjected to molecular and genetic examination, insofar as such measures are necessary to establish ancestry or to ascertain whether traces found originate from the defendant or the injured party. Such molecular or genetic examination may be conducted only upon an order of the pretrial judge.
5. If existing medical records are likely to contain information relevant to the criminal proceedings, the state prosecutor shall request an order from the pretrial judge for the records to be released to the state prosecutor.

Article 140

Pretrial Expert Testimony

1. The expert may be summoned to testify in a pre-trial testimony session if:
 - 1.1. the opinion provided in the expert report supports a conclusion of guilt of the defendant,
 - 1.2. the opinion provided in the expert report supports a conclusion of innocence of the defendant,
 - 1.3. the opinion provided in the expert report supports a conclusion which identifies the defendant, victim, or other person important to the investigation, or
 - 1.4. the opinion provided in the expert report supports a conclusion otherwise important to the investigation.
2. The defendant or victim may accept the conclusions of the expert's report. If all parties accept the conclusions of the expert's report, it shall be noted on the record and no testimony shall be taken.

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3. The pretrial testimony of the expert shall be taken under the rules of any pretrial testimony by a witness.
4. The expert shall be questioned by the state prosecutor, the defence counsel and the victim or victim advocate.
5. A summary record, transcript or recording of the testimony shall be entered into the file.

Article 141
Experts Engaged by the Defendant

1. The Defendant may request the state prosecutor to request expert analysis that is relevant to his or her defence. If the state prosecutor refuses, the defendant may object to that decision to the pretrial judge.
2. The Defendant may obtain and pay for expert analysis on his own. The expert must comply with Article 138 of this Code and the state prosecutor shall receive a copy of the defence expert's report within fourteen (14) days of its completion.

Article 142
Contradiction between Experts

If the findings of two or more expert witnesses differ on essential points or if their findings are ambiguous, incomplete, contradictory in themselves or with respect to the circumstances examined and if such deficiencies cannot be removed by a new examination of the expert witnesses, the opinion of other expert witnesses may be sought.

Article 143
Toxicological Analysis

1. Any examination or analysis under this Article shall be subject to the rules of expert analysis and testimony under Articles 136-142 of the present Code.
2. If poisoning is suspected, the state prosecutor shall order that suspicious substances found in the body or elsewhere be sent to an institute for toxicological research for expert analysis.
3. In analyzing suspicious substances, the expert witness shall focus in particular on establishing the kind, quantity and effect of the poison discovered. If suspicious substances were found in the body, the quantity of the poison used should also be established wherever possible.

Article 144
Examination of Bodily Injuries and Physical Examination

1. Any examination or analysis under this Article shall be subject to the rules of expert analysis and testimony under Articles 136-142 of the present Code.
2. If bodily injuries relevant to the criminal proceedings have already been treated by a physician, that physician may be summoned to give pretrial testimony based on

the records taken in the normal course of medical treatment, which shall be obtained by court order or consent. If the police have taken photographs of the injuries, the treating physician may be asked questions based upon those photographs and provide opinions based upon his or her education and experience. In lieu of testimony, the physician or physicians may issue an expert report with their findings in compliance with Article 138 of this Code, but are not required to do so.

3. If bodily injuries or the physical condition of a person have not been treated, or the medical records are incomplete, the state prosecutor may request the pretrial judge to order a physical examination to be done. The pretrial judge may order the physical examination if there is grounded cause to believe that the physical examination will result in evidence relevant to the criminal proceeding. The person to be examined may also consent to the physical examination without a court order. The professional institution, physician or physicians shall issue an expert report with their findings in compliance with Article 138 of this Code.
4. The pretrial judge may order blood or tissue samples, or other intrusive forensic or medical samples be taken from a defendant, only if there is a sound probability that the defendant committed a criminal offence and there is grounded cause to believe that the samples will provide evidence of the criminal offence or identity of the offender, or there exists other forensic evidence that can be matched with the samples ordered to be taken. The personal integrity of the defendant shall be respected during the execution of an order under this paragraph. The professional institution, physician or physicians shall issue an expert report with their findings in compliance with Article 138 of this Code.
5. When necessary, hair and follicle samples, saliva, urine, nasal swabs, swabs of skin surface including the groin area, fingernail and under-fingernail samples and other similar samples which do not entail bodily intrusion can be taken during a physical examination without a specific court order.
6. A physical examination involving bodily intrusion, such as taking a blood sample, during the physical examination, can only be conducted with a court order or with the voluntary consent of the person concerned.
7. A physical examination under the present Article shall be conducted by a qualified physician, nurse or technician in accordance with the rules of medical science and with full respect for the person's dignity and due consideration for the physical and psychological impact of the injury.
8. The provision under Article 139 paragraph 2 of the present Code shall apply *mutatis mutandis* to cases in which a person, other than the defendant, refuses to undergo an examination ordered by the court. Compulsion may be used only upon a separate order of the court.
9. The Ministry of Justice shall maintain all samples taken as a result of court orders and voluntary consent for a period of one (1) year after the final decision in a criminal proceeding, at which time the samples shall be destroyed. The samples shall only be available for and used for court-ordered retesting.
10. The Ministry of Justice shall maintain a record of all forensic results obtained by court orders or voluntary consent only when the subject of the forensic testing is convicted.

Article 145
Molecular and Genetic Examinations and DNA Analysis

1. Any examination or analysis under this Article shall be subject to the rules of expert analysis and testimony under Articles 136-142 of the present Code.
2. A court may order that material obtained by measures under Article 144 of the present Code be subjected to molecular and genetic examination, insofar as such measures are necessary to establish ancestry or to ascertain whether traces found originate from the defendant or the injured party.
3. For the purpose of establishing identity in criminal proceedings, cell tissue may be collected from a defendant for DNA identification in accordance with Article 144 of this Code.
4. The cell tissue collected may be used only for DNA identification provided for in paragraph 1 or paragraph 2 of the present Article; it shall be destroyed without delay once it is no longer required for that purpose. Information other than that required to establish the DNA code may not be ascertained during the examination and shall be inadmissible.
5. Evidence that has been found, secured or seized at the scene of a crime or in relation to a criminal proceeding may be examined and samples subjected to molecular and genetic examination upon the order of the state prosecutor.
6. The results of molecular and genetic examination on samples obtained under Paragraph 5 of this Article that have not been matched with a suspect or defendant may be retained by the Ministry of Justice until such time that they are matched with a suspect or defendant and that suspect or defendant is either convicted or acquitted. The Ministry of Justice shall issue regulations on the retention of the results of molecular and genetic examination under this Paragraph.

Article 146
Psychological Analysis

1. Any examination or analysis under this Article shall be subject to the rules of expert analysis and testimony under Articles 136-142 of the present Code.
2. If a psychological condition relevant to the criminal proceedings has already been evaluated or treated by a psychologist or physician, that psychologist or physician shall be summoned by the state prosecutor to give pretrial testimony based on the records taken in the normal course of treatment, which shall be obtained by court order or consent. The psychologist or physician may provide opinions based upon his or her education and experience. In lieu of testimony, the psychologist or physician may issue an expert report with their findings in compliance with Article 138 of this Code, but is not required to do so.
3. The person who has been evaluated may challenge the summons with the pre-trial judge if there are privacy concerns that are not surpassed by the relevancy to the criminal proceeding.
4. If a relevant psychological condition of a person has not been treated, the state prosecutor may request the pretrial judge to order a psychological evaluation to be done. The pretrial judge may order the psychological evaluation if there is

grounded cause to believe that the psychological evaluation will result in evidence relevant to the criminal proceeding. The person to be evaluated may also consent to the psychological evaluation without a court order. The professional institution, psychologist or physician shall issue an expert report with their findings in compliance with Article 138 of this Code.

5. The pretrial judge may order the psychological evaluation of a defendant only if there is a sound probability that the defendant committed a criminal offence, there is grounded cause to believe that the psychological condition of the defendant is impaired or was impaired at the time of the criminal offence, and that impairment of his or her psychological impairment is either relevant to the criminal proceeding or to the defendant's right to a fair trial. The psychologist or physician shall issue an expert report with their findings in compliance with Article 138 of this Code.
6. The psychological examination shall be done by professional psychologists or physicians trained in psychology or psychiatry. The examinations shall be performed in a manner respectful of the right to privacy.

Article 147 Computer Analysis

1. Any examination or analysis under this Article shall be subject to the rules of expert analysis and testimony under Articles 136-142 of the present Code.
2. For computer equipment, electronic storage media, or similar devices that are lawfully obtained through a court order or by consent, the state prosecutor may authorize a police officer or expert to examine, analyze and search for information or data contained within the computer equipment, electronic storage media or similar device.
3. The authorized police officer or other expert shall have education, training or experience in forensic computer analysis and searching.
4. The authorized police officer or other expert shall issue an expert report with their findings in compliance with Article 138 of this Code that shall also include the following information:
 - 4.1. the authorized police officer or other expert shall describe the computer equipment, data storage equipment, or specific computer files examined, including any identifying names, numbers, or exhibit tags.
 - 4.2. the authorized police officer or other expert shall describe where and how the computer equipment, data storage equipment or specific computer files were obtained by the police.
 - 4.3. the authorized police officer or other expert shall describe the chain of custody of the computer equipment, data storage equipment or specific computer files.
 - 4.4. the authorized police officer or other expert shall describe specific factual information for which he or she has been authorized to search on the computer equipment, data storage equipment or specific computer files.
 - 4.5. the authorized police officer or other expert shall describe the steps taken in keeping with the most current practices in the field of computer forensics to reliably and accurately accomplish the search, including but not limited to

- steps taken to protect against the loss of files, decrypt files, retrieve deleted files, or obtain metadata about computer files or emails.
- 4.6. the authorized police officer or other expert shall describe the results of his or her search and shall attach an electronic copy of the computer files that are relevant to the searches.

Article 148 **Financial Analysis**

1. Any examination or analysis under this Article shall be subject to the rules of expert analysis and testimony under Articles 136-142 of the present Code.
2. For financial records that are lawfully obtained through a court order or by consent, the state prosecutor may authorize a police officer or expert to examine, analyze and summarize financial information. The state prosecutor shall specify whether the authorized police officer or other expert shall determine:
 - 2.1. whether financial assets are material benefits of alleged criminal offences or were used in the commission of alleged criminal offences;
 - 2.2. the movement of financial assets that may be material benefits of alleged criminal offences or may have been used in the commission of alleged criminal offences;
 - 2.3. whether financial assets are missing due to alleged criminal offences and, if possible, the means and methods used;
 - 2.4. the financial harm caused by alleged criminal offences;
 - 2.5. the financial gain from alleged criminal offences;
 - 2.6. the amount of taxes or customs fees that might be owed by a defendant; or
 - 2.7. any other issue relevant to the criminal proceedings.
3. The authorized police officer or other expert shall have education, training or experience in financial analysis or accounting.
4. The authorized police officer or other expert shall issue an expert report with their findings in compliance with Article 138 of this Code.
5. If an expert audit of financial records is required due to the large extent of financial criminal offences, large or complex nature of the financial records, or the financial records must be reconstructed or regularized, the state prosecutor shall request the court to authorize an audit to be performed in which case:
 - 5.1. the Court order shall instruct the expert as to the aim and scope of the audit and the facts and circumstances which have to be ascertained. The costs of such task shall be borne by the business organization or legal person.
 - 5.2. the ruling on regularizing accounts shall be rendered by the court upon a written and substantiated report by the expert appointed to examine the business books. The ruling shall also specify the amount to be deposited with the court by the business organization or legal person as an advance on the costs entailed in regularizing the accounts. No appeal shall be permitted against this ruling.
 - 5.3. after the accounts have been regularized, the court shall, on the basis of the report of the expert witnesses, render a ruling by which it shall determine the amount of the costs incurred thereby and order that the costs be borne by

the business organization or legal person. The business organization or legal person may appeal concerning the basis of the decision on refunding the costs and the amount of the costs. The appeal shall be decided by the three-judge panel.

- 5.4. the payment of the costs, if their amount has not been advanced, shall be credited to the authority that has already paid the costs in advance and remunerated the expert.

Article 149

Special Investigative Opportunity

1. The state prosecutor, victim, victim advocate, defendant or defence attorney may, on an exceptional basis, request the pretrial judge to take testimony from a witness or request an expert analysis for the purpose of preserving evidence where there is a unique opportunity to collect important evidence or there is a significant danger that such evidence may not be subsequently available at the main trial.
2. The pretrial judge shall grant the request in paragraph 1 of this Article only where the criminal proceedings are investigating criminal offenses which are provided for in Article 90 of this Code.
3. The pretrial judge shall impanel two (2) other judges for the Special Investigative Opportunity Panel.
4. If an indictment is filed in the criminal proceeding, at least one of the two judges impaneled under Paragraph 3 of this Article shall be assigned as the presiding trial judge or assigned to the trial panel.
5. An appeal can be filed with the review panel against the refusal of the pre-trial judge to take such testimony.
6. In a Special Investigative Opportunity under the present Article, the pre-trial judge shall take such measures as may be necessary to ensure the efficiency and integrity of the proceedings and, in particular, to protect the rights of the defendant. The defendant and his or her defense counsel and the state prosecutor shall be present at the hearing for the taking of testimony. The victim and victim advocate shall also be informed of the hearing and will have the right to attend. The taking of testimony before the pre-trial judge shall be conducted in a manner in keeping with testimony taken at the main trial.
7. Any testimony taken in a Special Investigative Opportunity Panel shall be audio- or audio-video recorded, with the recording filed in the case file.
8. The testimony may be taken through video-conference technology if the witness is not within Kosovo and is not likely to return to Kosovo, or in accordance with a measure of witness protection.

Article 150

Site Inspection and Reconstruction

1. The state prosecutor can order a site inspection or a reconstruction to examine the evidence collected or to clarify facts that are important for criminal proceedings.
2. Such site inspection or reconstruction shall be conducted by the state prosecutor or

by the police. The state prosecutor and police may conduct such site inspection or reconstruction for their own knowledge to assist in their determination of credibility or fact-finding, but in such case, unless paragraphs 3 or 4 of this Article are complied with, the results are inadmissible in court. The state prosecutor may repeat such site inspection or reconstruction with notice as required by the present Article. If so, the results shall then be admissible.

3. The state prosecutor shall provide notice of the site inspection and reconstruction to the suspect, defendant and his or her defense counsel, if they are known. The defense counsel has the right to be present at the site inspection or reconstruction.
4. If the suspect, defendant or his or her defense counsel are unknown to the state prosecutor, the pre-trial judge shall attend and observe the site inspection and reconstruction.
5. A reconstruction shall be conducted by recreating facts or situations under the circumstances in which on the basis of the evidence taken the event had occurred. If facts or situations are presented differently in testimonies of individual witnesses, the reconstruction of the event shall as a rule be carried out with each of the witnesses separately.
6. In reconstructing an event care must be taken not to violate law and order, offend public morals or endanger the lives or health of people.
7. In conducting a site inspection or a reconstruction, the assistance of specialists in forensic science, traffic and other fields of expertise may be obtained to protect or describe the evidence, make the necessary measurements and recordings, draw sketches or gather other information. The provisions of this Article do not prejudice the power of the police to take initial steps to gather information, make measurements, recordings, draw sketches or collect forensic evidence under Articles 70-77 of this Code.
8. Information taken under Articles 70-77 of this Code in a report that complies, *mutatis mutandis*, with paragraphs 1 and 2 of Article 138 may be admissible upon the review of a pretrial judge. The pretrial judge may order a minimal site inspection or reconstruction to confirm the findings in a report under this Paragraph. The pretrial judge must order that the report be admissible.
9. An expert witness may also be invited to attend a site inspection or reconstruction, if his or her presence is considered of service by the state prosecutor or the court.
10. After indictment, the presiding trial judge may order a site reconstruction under this Article only if the guilt or innocence of a defendant requires the trial panel to have direct knowledge from the reconstruction of or a visit to the scene of the criminal offence.

D. Pretrial Examination of the Defendant

Article 151

Pretrial Examination of the Defendant

1. Prior to the filing of any indictment, the defendant shall be examined in a session of pre-trial testimony. If the defendant is being investigated for a criminal offence or offences punished with a maximum period of imprisonment of no more than

three (3) years, it shall be sufficient to give the defendant an opportunity to respond in writing.

2. The defendant shall be obliged to appear before the state prosecutor upon being summoned. Article 174 paragraphs 2 through 5 of the present Code shall apply *mutatis mutandis*. The defendant may appeal to the pre-trial judge to decide on the lawfulness of his or her being made to appear before the state prosecutor.

Article 152

Conduct of Pretrial Examination of the Defendant

1. The examination of the defendant shall be conducted by the state prosecutor. The state prosecutor may entrust the examination to the police.
2. Before any examination, the defendant, whether detained or at liberty, shall be read the warning in Article 125, paragraph 3 of this Code.
3. Before any examination, the defendant shall be informed of:
 - 3.1. the criminal offence with which he or she has been charged; and
 - 3.2. the fact that he or she may request evidence to be taken in his or her defense. If the defendant is in detention on remand, he or she shall also be informed before any examination of his or her right to have defense counsel provided if he or she cannot afford to pay for legal assistance.
 - 3.3. the right to remain silent and not to answer any questions, except to give information about his or her identity.
4. The defendant has the right to consult with his or her defense counsel prior to as well as during the examination.
5. An examination of the defendant by the police or state prosecutor when acting under the present Article shall be audio- or video-recorded in accordance with Article 208 or Article 209 of the present Code. In cases where this is impossible in practice, a written record of the examination shall be made in accordance with Chapter XI of the present Code and the record shall specify the reasons why the examination could not be audio- or video- recorded.

Article 153

Right of the Defendant to Interpretation

1. The defendant shall be examined through an interpreter in instances provided for by the present Code.
2. If the defendant is deaf or mute, the examination shall be conducted through a qualified sign language interpreter or in writing. If the examination cannot be carried out in that way, a person who knows how to communicate with the defendant shall be invited to act as interpreter, unless there is a conflict of interest.
3. If the interpreter has not taken an oath beforehand, he or she shall take an oath that he or she shall faithfully interpret the questions which are put to the defendant and the statements which he or she shall make.
4. The interpreter shall comply with Article 215 of this Code.

Article 154
Questioning of the Defendant during Pretrial Testimony

1. At the first examination, the defendant should be asked to provide his or her first name and surname and nickname, if any; the name and surname of his or her parents and the maiden name of his or her mother; his or her place of birth and place of residence; the day, month and year of his or her birth; his or her personal identification number; his or her nationality and citizenship; his or her occupation and family conditions; whether he or she is literate; his or her education; his or her personal income and his or her financial position; whether criminal proceedings against him or her for some other criminal offence are in progress; and if he or she is a minor, the identity of his or her legal representative. He or she shall be informed of the obligation to report any change in address or an intended change of the place of current residence.
2. The defendant shall be examined orally. He or she may be permitted to make use of his or her notes during the examination.
3. The examination shall be conducted with full respect for the dignity of the defendant.
4. The defendant shall be asked questions in a clear, distinct and precise manner. Questions to the defendant must not proceed from the assumption that the defendant has admitted something he or she has not admitted. The defendant may be asked to confirm or deny certain facts.
5. The prohibitions under paragraph 4 of the present Article shall apply irrespective of the defendant's consent.
6. The defendant shall be asked questions based on evidence or documents that are relevant to the criminal proceeding. Any relevant evidence or documents shall be shown to the defendant during questions related to the evidence or documents. The evidence or documents shall be clearly identified for the record.
7. Objects which are related to the criminal offence or which serve as evidence shall be presented to the defendant for recognition, after he or she has first described them. If these objects cannot be brought, the defendant may be taken to the place where they are located.
8. The examination should give the defendant an opportunity to dispel the grounds for suspicion against him or her and to assert the facts that are in his or her favor.

Article 155
Admissibility of Defendant's Statements

If the examination of the defendant was conducted in violation of the provisions of Article 257, paragraph 4 or Article 152 of the present Code, the statements of the defendant shall be inadmissible.

E. Review, Suspension, Termination and Time Limits of Investigations

Article 156

Obligation to review the case file

Every three (3) months the state prosecutor and the head of his or her office shall review the case file to determine whether the investigation should remain open, whether it should be suspended, whether it should be terminated or whether an indictment shall be filed.

Article 157

Suspension of Investigation

1. The state prosecutor may render a ruling to suspend the investigation if the defendant, after committing a criminal offence, has become afflicted with a temporary mental disorder or disability or some other serious disease, if he or she has fled or if there are other circumstances which temporarily prevent successful prosecution of the defendant.
2. Before the investigation is suspended, all obtainable evidence regarding the criminal offence and the criminal liability of the defendant shall be collected.
3. The state prosecutor shall resume the investigation after the obstacles that had caused suspension cease to exist.
4. The state prosecutor shall make an official note in the record of the investigation of the time and reasons for suspending the investigation and of the time when it was resumed. The state prosecutor shall inform the pre-trial judge of this suspension.
5. The time when the investigation was suspended shall not be taken into account in calculating the period of time for completing the investigation or for the expiration of the statute of limitations of a criminal offence.

Article 158

Termination of Investigation

1. The state prosecutor shall terminate the investigation if at any time it is evident from the evidence collected that:
 - 1.1. there is no reasonable suspicion that a specific person has committed the indicated criminal offence;
 - 1.2. the act reported is not a criminal offence which is prosecuted *ex officio*;
 - 1.3. the period of statutory limitation for criminal prosecution has expired;
 - 1.4. the criminal offence is covered by a pardon or an amnesty issued prior to the enactment of the Constitution of the Republic of Kosovo;
 - 1.5. the criminal offense has been included in an amnesty that was issued before the adoption of the Constitution of the Republic of Kosovo; or
 - 1.6. there are other circumstances that preclude prosecution.
2. The state prosecutor shall within eight (8) days of the termination of the investigation notify the injured party of this fact and the reasons for this. The state prosecutor shall immediately inform the pre-trial judge about the termination of the investigation.

3. An investigation shall terminate automatically upon its expiration under Article 159 of this Code.

Article 159
Time Limits of Investigation

1. If an investigation is initiated, the investigation shall be completed within two (2) years. If an indictment is not filed, or a suspension is not entered under Article 157 of this Code, after two (2) years of the initiation of the investigation, the investigation shall automatically be terminated.
2. The pre-trial judge may authorize a six (6) month extension of an investigation under Paragraph 1 of this Article where a criminal investigation is complex, including but not limited to if there are four or more defendants, multiple injured parties have been identified, a request for international assistance has been made, or other extraordinary circumstances exist.
3. If a defendant has been arrested and is being held in detention on remand, the pre-trial judge shall not order an extension under Paragraph 2 of this Article or any extension of the detention on remand unless the state prosecutor demonstrates that the investigation is being actively conducted and any delay is beyond the control of the state prosecutor.

Article 160
Death of Defendant

If in the course of criminal proceedings it is ascertained that the defendant has died, the state prosecutor shall render a ruling to dismiss criminal proceedings.

CHAPTER X
DEPRIVATION OF LIBERTY PRIOR TO INDICTMENT AND MEASURES
TO ENSURE PRESENCE OF THE DEFENDANT

1. GENERAL PRINCIPLES

Article 161
Principle of Interpretation

1. The Articles in this Chapter shall be interpreted by the police, state prosecutor and courts under the following principles:
 - 1.1. the defendant's right to liberty and security establishes a presumption in favour of remaining free.
 - 1.2. a deprivation of liberty under this Chapter shall only be ordered by the court if the state prosecutor presents evidence under this Chapter which overcomes the presumption in sub-paragraph 1.1 of this paragraph.
 - 1.3. if a deprivation of liberty under this Chapter is ordered, the police, state prosecutor or court should use the most limited restrictions on liberty possible.

- 1.4. this Article applies to measures to deprive liberty or to ensure the presence of the defendant during criminal proceedings.

2. DEPRIVATION OF LIBERTY PRIOR TO INDICTMENT

Article 162

Provisional Arrest and Police Detention

If a person is caught in the act of committing a criminal offence prosecuted *ex officio* or is being pursued, the police or any other person shall be authorized to arrest him or her provisionally even without a court order. The person deprived of his or her liberty by persons other than the police shall be immediately turned over to the police or, where that proves impossible, the police or the state prosecutor must be immediately notified. The police shall act in accordance with Article 163 and 164 of the present Code.

Article 163

Limits on Provisional Arrest and Police Detention

1. The police shall not deprive a person of liberty unless:
 - 1.1. an arrest is authorized under Article 162 of this Code,
 - 1.2. there is a court order to arrest a person,
 - 1.3. there is an arrest order or warrant that appears to be valid which has been received through INTERPOL or through diplomatic channels,
 - 1.4. an arrest is authorized under Article 164 of this Code.
 - 1.5. the deprivation of liberty is brief and complies with Article 72 of this Code.
2. Any person whose liberty has been deprived through arrest under this Article shall be brought without delay to a pre-trial judge to rule on detention on remand. The delay shall not exceed forty eight (48) hours.

Article 164

Arrest During Investigative Stage

1. When a state prosecutor has authorized a investigative stage, the police shall only arrest and detain a person when:
 - 1.1. there is a grounded suspicion that he or she has committed a criminal offence which is prosecuted *ex officio*; and
 - 1.2. there are articulable grounds to believe:
 - 1.2.1. there is a risk of flight,
 - 1.2.2. that he or she will destroy, hide, change or forge evidence of a criminal offence or specific circumstances indicate that he or she will obstruct the progress of the criminal proceedings by influencing witnesses, injured parties or accomplices; or
 - 1.2.3. the seriousness of the criminal offence, or the manner or circumstances in which it was committed and his or her personal characteristics, past conduct, the environment and conditions in

which he or she lives or other personal circumstances indicate a risk that he or she will repeat the criminal offence, complete an attempted criminal offence or commit a criminal offence which he or she has threatened to commit.

2. The arrest and detention under the present Article shall be authorized by the state prosecutor who initiated the investigative stage or, when due to exigent circumstances such authorization cannot be obtained prior to arrest, by the police who must inform the state prosecutor immediately after the arrest.
3. A person arrested under this Article has the rights of a defendant.
4. Upon arrest, the arrested person shall be informed:
 - 4.1. orally of the rights set forth in Article 167 of the present Code; and
 - 4.2. in writing of the other rights which he or she enjoys under the present Code.
5. Detention under the present Article may not exceed forty-eight (48) hours from the time of arrest. On the expiry of that period the police shall release the detainee, unless a pre-trial judge has ordered detention on remand.
6. As soon as possible after the arrest and no later than six (6) hours from the time of the arrest, the state prosecutor shall issue to the arrested person a written decision on detention which shall include the first and last name of the arrested person, the place, date, and exact time of the arrest, the criminal offence of which he or she is suspected, and the legal basis for the arrest.
7. Within twenty four (24) hours of the arrest, the state prosecutor shall file with the pretrial judge a request for detention on remand.
8. The request for detention on remand shall comply with Article 165 of this Code.
9. The defendant shall be represented by defence counsel at the hearing on the request for detention on remand. Defence counsel shall have access to review the case file for the defendant in preparation for the hearing.
10. As soon as possible, but no later than within forty-eight (48) hours of arrest, the pretrial judge shall hold a hearing to determine whether the defendant shall be held in detention on remand.
11. As soon as possible, but no later than forty-eight (48) hours after the hearing under Paragraph 10 of this Article, the pretrial judge shall issue a decision determining whether the defendant shall be held in detention on remand.
12. The pretrial judge must consider whether lesser measures to ensure the presence of the defendant in Article 173 of this Code may be ordered.
13. The decision of a pretrial judge to order detention on remand is appealable in accordance with the provisions of Article 189, paragraph 3 of this Code.

Article 165

Request for Measure to Ensure Presence of Defendant

1. If the state prosecutor believes that a lesser measure to ensure the presence of defendant in Article 173 of this Code is warranted, he or she shall file a request for the lesser measure to ensure the presence of the defendant.
2. If the state prosecutor believes that detention on remand is warranted, then he or she shall file a request for detention with the pretrial judge that shall include:
 - 2.1. the first and last name of the arrested person,

- 2.2. the place, date, and exact time of the arrest,
- 2.3. the criminal offence of which he or she is suspected,
- 2.4. a description of the evidence that supports the grounded suspicion that the arrested person has committed the suspected criminal offence,
- 2.5. a description of the evidence that supports the articulable grounds to believe:
 - 2.5.1. there is a risk of flight,
 - 2.5.2. that the arrested person will destroy, hide, change or forge evidence of a criminal offence or specific circumstances indicate that he or she will obstruct the progress of the criminal proceedings by influencing witnesses, injured parties or accomplices; or
 - 2.5.3. the seriousness of the criminal offence, or the manner or circumstances in which it was committed and his or her personal characteristics, past conduct, the environment and conditions in which he or she lives or other personal circumstances indicate a risk that he or she will repeat the criminal offence, complete an attempted criminal offence or commit a criminal offence which he or she has threatened to commit, and
- 2.6. a description of articulable grounds to believe that lesser measures to ensure the presence of the defendant are insufficient.
3. If the state prosecutor's request for detention on remand fails to establish the grounded suspicion that the arrested person has committed the suspected criminal offence, the pretrial judge shall release the defendant.
4. If the state prosecutor's request for detention on remand fails to establish the articulable grounds to believe any of the three elements in Paragraph 2 subparagraph 2.5 of this Article, the pretrial judge shall consider and order a lesser measure to ensure the presence of defendant listed in Article 173 of this Code, release the defendant or request further clarification from the state prosecutor.
5. If the state prosecutor's request for detention on remand fails to establish the articulable grounds that lesser measures to ensure the presence of defendant is insufficient, the pretrial judge shall consider and order a lesser measure to ensure the presence of defendant listed in Article 173 of this Code or release the defendant.

Article 166 **Right of Arrested Person**

1. An arrested person has the right to the immediate assistance of defense counsel of his or her own choice upon arrest.
2. If the arrested person does not engage a defense counsel and no one engages a defense counsel for him or her, he or she shall be provided with a defense counsel at public expense.
3. The arrested person has the right to communicate confidentially with defense counsel orally and in writing. Communications between an arrested person and his or her defense counsel may be within sight but not within the hearing of a police officer.

4. The right to the assistance of defense counsel may be waived in accordance with Article 53 paragraphs 3, 4 and 5 of the present Code.
5. If the arrested person is suspected of terrorism or organized crime and there are grounds to believe that the defense counsel chosen by the arrested person is involved in the commission of the criminal offence or will obstruct the conduct of the investigation, the pretrial judge may, upon the application of the state prosecutor, order that alternative defense counsel be appointed to represent the arrested person for a maximum period of seventy-two (72) hours from the time of arrest.

Article 167

Information of Arrested Person on his or her Rights

1. An arrested person has the following rights:
 - 1.1. to be informed about the reasons for the arrest, in a language that he or she understands;
 - 1.2. to remain silent and not to answer any questions, except to give information about his or her identity;
 - 1.3. to be given the free assistance of an interpreter, if he or she cannot understand or speak the language of the police;
 - 1.4. to receive the assistance of defense counsel and to have defense counsel provided if he or she cannot afford to pay for legal assistance;
 - 1.5. to notify or require the police to notify a family member or another appropriate person of his or her choice about the arrest; and
 - 1.6. to receive a medical examination and medical treatment, including psychiatric treatment.
2. If the arrested person is a foreign national, he or she has the right to notify or to have notified and to communicate orally or in writing with the embassy, liaison office or the diplomatic mission of the state of which he or she is a national or with the representative of a competent international organization, if he or she is a refugee or is otherwise under the protection of an international organization.

Article 168

Notification of Arrest

1. An arrested person has the right to notify or to require the police to notify a family member or another appropriate person of his or her choice about the arrest and the place of detention, immediately after the arrest, and about any subsequent change in the place of detention, immediately after such change.
2. When an arrested person has not reached the age of eighteen (18) years, the police shall notify the parent or legal representative of the arrested person about the arrest and the place of detention immediately after the arrest, and about any subsequent change in the place of detention, immediately after such change. If such notification is impossible, would be detrimental to the interests of the arrested person or is expressly refused by the arrested person, the police shall notify the Centre for Social Work.

3. When an arrested person displays signs of mental disorder or disability, the police shall notify a person nominated by the arrested person and the Centre for Social Work about the arrest and the place of detention immediately after the arrest, and about any subsequent change in the place of detention, immediately after such change.
4. Notification of a family member or another appropriate person in accordance with paragraph 1 of the present Article may be delayed for up to twenty-four (24) hours where the state prosecutor determines that the delay is required by the exceptional needs of the investigation of the case. There shall be no delay if the arrested person is under eighteen (18) years of age or displays signs of mental disorder or disability.

Article 169
Right of Arrested Person to Medical Examination

1. An arrested person has the right, upon request, to be examined by a doctor or dentist of his or her own choice as promptly as possible after his or her arrest and at any time during detention. If such doctor or dentist is not available, a doctor or dentist shall be designated by the police.
2. An arrested person has the right to medical treatment, including psychiatric treatment, whenever necessary, upon the request of the arrested person or family members.
3. The police may also appoint a doctor to conduct a medical examination or to provide medical treatment at any time in the case of physical injury or other apparent medical necessity. In case the arrested person refuses to undergo a medical examination or to accept medical treatment, the doctor shall render a final decision on the necessity of such examination or treatment, after due consideration of the rights of the arrested person.
4. If an arrested person displays signs of mental illness, the police may immediately order an examination by a psychiatrist.
5. The results of any medical examination or any medical treatment undertaken pursuant to the present Article shall be duly recorded, and such records shall be made available to the arrested person and his or her defense counsel.

Article 170
Right of Arrested Person during Detention

1. An arrested person shall be detained separately from sentenced persons or persons in detention on remand.
2. Persons of different sex shall not be detained in the same room.
3. A person detained for more than twelve (12) hours shall be provided with three meals daily.
4. In any period of twenty-four (24) hours, an arrested person shall have the right to at least eight (8) hours of uninterrupted rest, during which he or she shall not be examined and shall not be disturbed by the police in connection with the investigation.

Article 171
Right of Arrested Person during Examinations by Police

1. During all examinations by the police, an arrested person has the right to the presence of defense counsel. If defense counsel does not appear within two (2) hours of being informed of the arrest, the police shall arrange alternative defense counsel for him or her. Thereafter, if the alternative defense counsel does not appear within one hour of being contacted by the police, the arrested person may be examined only if the state prosecutor or the police determine that further delay would seriously impair the conduct of the investigation.
2. Articles 152 to 155 of the present Code shall apply *mutatis mutandis* to the examination of the arrested person.
3. There shall be short breaks in the examination of an arrested person at intervals of approximately two (2) hours. A break may be delayed if there are reasonable grounds to believe that delay would:
 - 3.1. involve a risk of harm to persons or serious loss of, or damage to, property;
 - 3.2. unnecessarily prolong the person's detention or the conclusion of the examination; or
 - 3.3. otherwise prejudice the outcome of the investigation.
4. During an examination an arrested person shall not be required to stand and shall not be denied food, water or any necessary medical attention.

Article 172
Record of Arrest and Actions by Police

1. The police shall keep a single written record of all actions undertaken with respect to an arrested person, including:
 - 1.1. the personal data of the arrested person;
 - 1.2. the reasons for the arrest;
 - 1.3. the criminal offence of which he or she is suspected;
 - 1.4. the authorization or notification of the state prosecutor;
 - 1.5. the place, date, and exact time of the arrest;
 - 1.6. the circumstances of the arrest;
 - 1.7. any decision of the state prosecutor regarding detention;
 - 1.8. the place of detention;
 - 1.9. the identity of the police officers and the state prosecutor concerned;
 - 1.10. oral and written notification to the arrested person of his or her rights, as provided for in Article 164 paragraph 4 and Article 167 of the present Code;
 - 1.11. information about the exercise of the rights in subparagraph 1.10 of this paragraph by the arrested person, especially the right to defense counsel and to notification of family members or other appropriate persons;
 - 1.12. visible injuries or other signs which suggest the need for medical help;
 - 1.13. the conduct of a medical examination or the provision of medical treatment; and
 - 1.14. information about the provisional security search of the person and a description of objects taken from the person at the time of the arrest or during detention.

- 1.15. information on the exit of arrested person from the building, including the exact date and time, information on whether the person was released or sent before the judge, or if he or she was transferred to the detention center.
2. The police shall keep a written record of any examination of the arrested person, including the time of beginning and concluding the examination and the identity of the police officer who conducted the examination and any other persons present. If the defense counsel was not present, this shall be duly noted.
3. The written records under paragraph 1 of the present Article shall be signed by the appropriate police officer and countersigned by the arrested person. If the arrested person refuses to sign the written records, the police authorities shall record such refusal and any explanation and append any comments offered by the arrested person orally or in writing.
4. The written records under paragraphs 1 and 2 of the present Article shall be made available to the arrested person and his or her defense counsel on their request and in a language that the arrested person understands.
5. These records shall be preserved by the police for a period of ten (10) years from the time of the official end of the criminal proceedings or the person's release from detention, whichever is later.

3. MEASURES TO ENSURE PRESENCE OF DEFENDANT

A. General Considerations

Article 173

Authorized Measures to Ensure Presence of Defendant

1. The measures to ensure the presence of defendant which may be used to ensure the presence of the defendant, to prevent re-offending and to ensure successful conduct of the criminal proceedings are:
 - 1.1. summons;
 - 1.2. order for arrest;
 - 1.3. promise of the defendant not to leave his or her place of current residence;
 - 1.4. prohibition on approaching a specific place or person;
 - 1.5. attendance at a police station;
 - 1.6. bail;
 - 1.7. house detention;
 - 1.8. diversion; and
 - 1.9. detention on remand.
2. In deciding which measure to apply, the court shall be obliged to take account of the conditions specified for the individual measures and to ensure that it does not apply a more severe measure if a less severe measure would suffice.
3. These measures shall be terminated when the reasons that necessitated them cease to exist or shall be replaced by more lenient measures if the conditions are met for this.
4. The decisions regarding these measures shall be made by the pre-trial judge before the indictment has been filed and by the presiding trial judge after the indictment has been filed, unless provided otherwise by the present Code.

5. The term “lesser measures to ensure the presence of defendant” or “lesser measures” as used in this code shall mean a summons; a promise of the defendant not to leave his or her place of current residence; a prohibition on approaching a specific place or person; attendance at a police station; bail, house detention or diversion.

B. Summons

Article 174 Summons

1. The presence of the defendant in the proceedings shall be ensured by serving a summons. A summons shall be sent to the defendant by the court in accordance with Chapter XXVII of this Code.
2. A summons shall be sent to the defendant in the form of a sealed letter containing: the name and address of the court sending the summons; the name and surname of the defendant; the designation of the criminal offence with which he or she is charged; the place, day and hour at which he or she is to appear; an indication that he or she is being summoned as the defendant; a warning that an order for arrest will be issued and he or she will be compelled to appear if he or she fails to appear; and the official stamp and name of the judge who issues the summons.
3. When summoned for the first time, the defendant shall be advised in the summons of his or her right to engage a defense counsel and of the right of the defense counsel to attend his or her examination.
4. The defendant shall immediately notify the court of any change in address or the intention to change the place of current residence. The defendant shall be informed of this obligation on the occasion of the first examination or the serving of an indictment and at the same time he or she shall be warned of the consequences of non-compliance as provided for by the present Code.
5. If by reason of an illness or some other insurmountable obstacle the defendant is unable to comply with the summons, he or she shall be examined at the place where he or she is found or shall be transported to the court building or another place where the proceedings are taking place or the examination shall be postponed.

C. Order for Arrest

Article 175 Order for Arrest

1. A pre-trial judge, single trial judge or a presiding trial judge may issue an order for arrest *ex officio*, upon the application of the state prosecutor or, in exigent circumstances, upon the application of the police if the conditions under Article 187 paragraph 1 of the present Code exist, or if a defendant, after being duly summoned, fails to appear and to justify his or her absence or if the summons could not be duly delivered and it is evident from the circumstances that the defendant is avoiding the receipt of the summons.

2. The order for arrest shall be issued in writing and shall contain: the name and surname of the defendant and other personal data known to the judge; the designation of the criminal offence with which he or she is charged and an indication of the pertinent provision of the Criminal Code and of the grounds on which the order is issued; and the official stamp and signature of the judge who orders the arrest. Unless the order for arrest specifies a different expiration date, the order for arrest shall expire at midnight on the 365th day after it is issued.
3. The order for arrest shall be executed by the police.
4. The police officer in charge of executing the order shall serve the order on the defendant and ask the defendant to accompany him or her. If the defendant refuses to comply, the police officer shall compel him or her to appear.
5. An order for the compulsory appearance of police officers or guards in an institution in which persons are kept in detention shall be executed through the intermediary of their command or warden.
6. At the time of the arrest, the person shall be informed of the reasons for the arrest in a language which he or she understands and of his or her rights under Article 167 of the present Code.
7. An arrested person shall, immediately after the arrest, be brought before the judge who issued the order.

D. Promise of Defendant not to Leave his or her Place of Current Residence

Article 176

Promise of Defendant Not to Leave his or her Place of Current Residence

1. The court may seek a promise from the defendant not to go into hiding, nor to leave his or her place of current residence without the permission from the court, if there is a grounded suspicion that he or she has committed a criminal offence and there are reasons to suspect that the defendant may go into hiding or leave for an unknown destination or leave Kosovo during the course of criminal proceedings. The promise of the defendant shall be written down in the record.
2. The travel document of a defendant obligated by the promise under paragraph 1 of the present Article may be temporarily confiscated. An appeal against a ruling to confiscate temporarily a travel document shall not stay execution.
3. On giving such promise, the defendant shall be warned that the court may order detention on remand if he or she violates the promise.

E. Prohibition of Approaching a Specific Place or Person

Article 177

Prohibition of Approaching a Specific Place or Person

1. The court may prohibit the defendant from approaching a specific place or person, if:
 - 1.1. there is a grounded suspicion that the defendant has committed a criminal offence;

- 1.2. the circumstances under Article 187 paragraph 1 subparagraph 1.2.2. and 1.2.3. of the present Code obtain; and
- 1.3. such prohibition can decrease the risk that the defendant will destroy evidence of the criminal offence, influence witnesses, co-perpetrators or accessories after the fact, repeat the criminal offence, complete an attempted criminal offence or commit a threatened criminal offence.
2. The court shall decide on a measure under the present Article in a ruling supported by reasoning. The ruling must contain the justification for determining that the conditions under paragraph 1 of the present Article are met and that there is a need for this measure.
3. The court shall stipulate in the ruling an appropriate distance from the specific place or person which the defendant shall respect and may not intentionally cross.
4. The ruling shall be served on the defendant and, where applicable, a copy shall be served on the person protected under the measure.
5. The court shall order detention on remand if the defendant violates the ruling. The defendant must always be informed of the consequences of non-compliance in advance.
6. If the person protected under the measure intentionally violates the distance that the defendant is obligated to respect, the court may punish the protected person by a fine provided for in Article 444 of the present Code.
7. Unless otherwise provided in the present Article, the provisions of the present Code concerning detention on remand shall apply *mutatis mutandis* to the ordering, duration, extension and termination of the measure under the present Article.
8. The extension of a measure under the present Article before the indictment is filed shall be decided by the pre-trial judge *ex officio* or upon the application of the state prosecutor.

F. Attendance at Police Stations

Article 178

Attendance at Police Stations

1. The court may order that the defendant must periodically appear at a specified time at the police station in the area where the defendant has permanent or current residence or where the defendant happens to be at the time of the order, if:
 - 1.1. there is a grounded suspicion that the defendant has committed a criminal offence; and
 - 1.2. there are grounds to suspect that the defendant will go into hiding, leave for an unknown destination or leave Kosovo.
2. The court shall decide on a measure under the present Article in a ruling supported by reasoning. The ruling must contain the justification for determining that the conditions under paragraph 1 of the present Article are met and that there is a need for this measure.
3. The ruling shall be served on the defendant and a copy shall be sent to the relevant police station on the territory where the measure is to be implemented.
4. The court may order detention on remand, if the defendant violates the ruling. The

defendant must always be informed of the consequences of non-compliance in advance.

5. Unless otherwise provided in the present Article, the provisions of the present Code concerning detention on remand shall apply *mutatis mutandis* to the ordering, duration, extension and termination of the measure under the present Article.
6. The extension of a measure under the present Article before the indictment is filed shall be decided by the pre-trial judge *ex officio* or upon the application of the state prosecutor.
7. The travel document of a person subject to a ruling under the present Article may be temporarily confiscated. An appeal against the ruling to confiscate temporarily a person's travel document shall not stay execution.

G. Bail

Article 179

Bail

1. The court may order that the defendant remain at liberty on bail or be released on bail from detention on remand, if:
 - 1.1. there is a grounded suspicion that the defendant has committed a criminal offence;
 - 1.2. the only basis for detention on remand is a fear that the defendant may flee; and
 - 1.3. the defendant has promised that he or she will not go into hiding or leave his or her place of current residence without permission.
2. The court may also order by a ruling that the defendant remain at liberty on bail or be released on bail from detention on remand, if:
 - 2.1. there is a grounded suspicion that the defendant has committed a criminal offence;
 - 2.2. the defendant is not suspected of a criminal offence punishable by imprisonment of at least five (5) years under Chapters XIV, XV, XVI, XVII, XX, XXI, XXIX, XXX and XXXIII of the Criminal Code;
 - 2.3. the only basis for detention on remand is a risk that the defendant will repeat the criminal offence, complete an attempted criminal offence or commit a criminal offence which he or she has threatened to commit; and
 - 2.4. the defendant has promised not to repeat the criminal offence, complete an attempted criminal offence or commit a criminal offence which he or she has threatened to commit.
3. The bail ordered by the court shall be provided by the defendant or another person on his or her behalf.

Article 180

Ruling on Bail

1. The court shall decide on the measure under Article 179 of the present Code in a ruling supported by reasoning. The ruling must contain the justification for

determining that the conditions under Article 179 of the present Code are met and that there is a need for this measure.

2. Prior to indictment, the ruling on bail shall be rendered by the pre-trial judge and, after the indictment has been filed, by the single trial judge or presiding trial judge.
3. The ruling by which bail is granted and the ruling by which it is cancelled shall be rendered after hearing the opinion of the state prosecutor, if the criminal offence is being prosecuted *ex officio*, and the opinion of the defendant or the defense counsel.
4. The ruling shall be served on the defendant.
5. The travel document of a person subject to a ruling on bail shall be temporarily confiscated, unless there are compelling reasons for the court not to confiscate the travel document. An appeal against the ruling to confiscate temporarily a person's travel document shall not stay execution.

Article 181 Definition of Bail

1. Bail shall always be defined as an amount of money determined relative to the gravity of the criminal offence, the personal and family conditions of the defendant and the material position of the person who gives bail.
2. Bail may be provided in cash, securities, valuable objects and other movable property of high value which may readily be converted into cash and deposited for safekeeping, in the form of a mortgage for the amount of bail on a real estate of the person who gives bail, or as a personal liability of one or more persons who undertake to pay the amount of bail in case the defendant flees.
3. If the defendant flees, the amount given as bail shall be assigned to the Victim Compensation Fund by a ruling of the Court.

Article 182 Noncompliance and Cancellation of Bail

1. When bail has been ordered under Article 179 paragraph 1 of the present Code, the defendant shall be detained on remand and bail shall be cancelled, if after being duly summoned he or she fails to appear and to justify his or her non-appearance, if he or she is preparing to flee or if some other legal ground for his or her detention on remand arises while he or she is at liberty.
2. When bail has been ordered under Article 179 paragraph 2 of the present Code, the defendant shall be detained and the amount given as bail shall be assigned to the budget by a ruling, if he or she repeats the criminal offence, completes an attempted criminal offence or commits a criminal offence which he or she has threatened to commit.
3. The defendant must always be informed of the consequences of non-compliance in advance.
4. Bail shall be cancelled once criminal proceedings have been terminated by a final ruling discontinuing the proceedings or by a final judgment. If the defendant is punished by imprisonment, bail shall be cancelled only after he or she has started serving the sentence.

5. Upon the cancellation of bail, any deposited cash, securities, valuable objects and other movable property of high value shall be returned and any mortgage shall be released.

H. House Detention

Article 183 House Detention

1. The court may order that the defendant be placed under house detention, if:
 - 1.1. there is a grounded suspicion that the defendant has committed a criminal offence; and
 - 1.2. the circumstances under Article 187 paragraph 1 subparagraph 1.2 of the present Code obtain.
2. The court shall decide on a measure under the present Article in a ruling supported by reasoning. The ruling must contain the justification for determining that the conditions under paragraph 1 of the present Article are met and that there is a need for this measure.
3. The court shall determine in the ruling that the defendant may not move from the premises in which he or she permanently or currently resides or from a public treatment or care institution. The court may restrict or prohibit contacts between the defendant and persons with whom he or she does not live or persons who are not dependent on the defendant. Exceptionally, the court may allow the defendant to move for a specific time away from the premises where house detention is being implemented whenever this is unavoidably necessary to ensure essential living needs or to perform work.
4. The ruling shall be served on the defendant and a copy shall be sent to the relevant police station on the territory where the measure is to be implemented.
5. The court may order detention on remand, if the defendant violates the ruling. The defendant must always be informed of the consequences of non-compliance in advance.
6. The court shall supervise the implementation of the measure of house detention, either directly or through the police. The police shall have the right to verify the implementation of the measure of house detention at any time, and shall randomly verify the presence of the defendant at the location of the house detention. The police shall inform the court without delay of any possible violations of the measure.
7. Unless otherwise provided for by the present Article, the provisions of the present Code on detention on remand shall apply *mutatis mutandis* to the ordering, duration, extension and termination of the measure under the present Article. Provisions of the Criminal Code on the inclusion of detention in the punishment imposed shall also apply *mutatis mutandis* to the measure under the present Article.
8. The single trial judge or presiding trial judge shall in all cases decide on the extension of house detention after the filing of the indictment based on a motion of the state prosecutor which is supported by reasoning. The defendant as well as his

or her defense counsel, where the defendant has such, must be informed of the motion within three days of the expiry of the current ruling on house detention.

9. The travel document of a person subject to house detention may be temporarily confiscated. An appeal against the ruling to confiscate temporarily a person's travel document shall not stay execution.

I. Diversion

Article 184 Diversion

1. A defendant who has been arrested for a criminal offence for which the maximum punishment is no more than one (1) year, and who has no previous criminal convictions or participation in diversion may receive diversion upon the order of the pretrial judge. The defendant or state prosecutor may also propose diversion. If the state prosecutor consents to, or proposes diversion to the court, the pretrial judge may suspend the criminal proceedings for one (1) year, and shall release the defendant under the following conditions:
 - 1.1. the defendant shall make reasonable compensation to the victims of the criminal offence, if any exist, as determined by the pretrial judge,
 - 1.2. the defendant shall report to the police station closest to his residence on a regular basis set by the pretrial judge, and
 - 1.3. the defendant shall attend and complete counseling, psychological treatment, substance abuse treatment, educational opportunities, or other alternative actions deemed appropriate by the pretrial judge.
2. If the defendant has complied with the conditions of the pretrial judge, the criminal proceedings against the defendant shall be dismissed by the pretrial judge during the twelfth month of diversion.
3. If the defendant breaches the conditions of the pretrial judge, the criminal proceedings shall be reinstated. The pretrial judge may, if warranted, issue an order for arrest under Article 175 of this Code.

J. Detention on Remand

Article 185 Detention on Remand

1. Detention on remand may only be ordered on the grounds and in accordance with the procedures provided for by the present Code.
2. Detention on remand shall last the shortest possible time. All agencies participating in criminal proceedings and agencies that provide legal assistance to them have a duty to proceed with special urgency if the defendant is being held in detention on remand.
3. Detention on remand shall, at any stage of the proceedings, be terminated and the detainee released as soon as the reasons for it cease to exist.
4. Article 166 paragraphs 2 and 3, Article 167 paragraph 2, Article 168, Article 169,

Article 170 paragraph 3 and Article 171 paragraphs 3 and 4 of the present Code shall apply throughout detention on remand.

5. Upon arrest, the person subject to detention on remand shall be informed:
 - 5.1. orally and in writing of the rights set forth in Article 167 of the present Code; and
 - 5.2. in writing of the other rights which he or she enjoys under the present Code.

Article 186

Notification of Competent Social Welfare Body about the Arrest, when such a Measure is Necessary

The arrest shall be reported to the competent social welfare body, if it is necessary to take measures for the safety of the children and other family members of the arrested person who are under his or her care.

Article 187

Findings Required For Detention on Remand

1. The court may order detention on remand against a person only after it explicitly finds that:
 - 1.1. there is a grounded suspicion that such person has committed a criminal offence;
 - 1.2. one of the following conditions is met:
 - 1.2.1. he or she is in hiding, his or her identity cannot be established or other circumstances indicate that there is a danger of flight;
 - 1.2.2. there are grounds to believe that he or she will destroy, hide, change or forge evidence of a criminal offence or specific circumstances indicate that he or she will obstruct the progress of the criminal proceedings by influencing witnesses, injured parties or accomplices; or
 - 1.2.3. the seriousness of the criminal offence, or the manner or circumstances in which it was committed and his or her personal characteristics, past conduct, the environment and conditions in which he or she lives or other personal circumstances indicate a risk that he or she will repeat the criminal offence, complete an attempted criminal offence or commit a criminal offence which he or she has threatened to commit; and
 - 1.3. the lesser measures to ensure the presence of defendant listed in Article 173 of the present Code would be insufficient to ensure the presence of such person, to prevent re-offending and to ensure the successful conduct of the criminal proceedings.
2. When detention on remand is ordered pursuant to paragraph 1 subparagraph 1.2 of the present Article solely because a person's identity cannot be established, it shall be terminated as soon as identity is established. When detention on remand is ordered pursuant to paragraph 1 subparagraph 1.2 of the present Article, it shall be terminated as soon as the evidence on account of which detention on remand was ordered has been taken or secured.

3. If the defendant has violated one of the lesser measures to ensure the presence of defendant listed in Article 173 of the present Code, this shall be taken into particular consideration by the court when establishing the existence of circumstances under paragraph 1 subparagraphs 1.2 and 1.3 of the present Article.

Article 188

Procedure for Order of Detention on Remand

1. Detention on remand shall be ordered by the pre-trial judge of the competent court upon a written application of the state prosecutor and after a hearing.
2. After the arrested person has been brought before the pre-trial judge, he or she shall immediately inform such person of his or her rights under Article 167 of the present Code. This shall be entered in the record together with the exact time of the arrest and the time when the person was brought before the pre-trial judge.
3. The pre-trial judge shall then conduct a hearing on detention on remand. The state prosecutor and the defense counsel shall be present at the hearing.
4. If the arrested person fails to engage his or her own defense counsel within twenty-four (24) hours of being informed of such right or declares that he or she will not engage a defense counsel, the court shall appoint a defense counsel for him or her *ex officio*.
5. At the hearing on detention on remand, the state prosecutor shall state the reasons for his or her application for detention on remand. The defendant and his or her defense counsel may respond with their arguments.
6. The pre-trial judge shall rule on the motions of the parties when the parties have made statements on all issues that could be relevant to the application of measures under the present Chapter.

Article 189

The Content of the Ruling Ordering Detention on Remand and the Appeal Against it

1. Detention on remand shall be ordered by a written ruling including: the name and surname of the person to be detained on remand and his or her other personal data known to the pre-trial judge; the exact time of arrest; the time when the person was brought before the pre-trial judge; the time of the hearing for detention on remand; the criminal offence of which he or she has been charged; the legal grounds for detention on remand; instructions on the right to appeal; and an explanation of all material facts which dictated detention on remand, including the reasons for the grounded suspicion that the person committed a criminal offence and the material facts under Article 187 paragraph 1 subparagraph 1.2 of the present Code.
2. The ruling on detention on remand shall be served on the person concerned, his or her defense counsel and the state prosecutor. The time of the service of the ruling on the person concerned shall be indicated in the case file.
3. Each party may file an appeal within twenty-four (24) hours of being served with the ruling. The appeal shall not stay execution of the ruling. If only one party appeals, the appeal shall be served by the court on the other party who may submit

arguments to the court within twenty-four (24) hours of being served with the appeal. The appeal shall be decided within forty eight (48) hours of the filing of the appeal.

4. If the pre-trial judge rejects the request of the state prosecutor for detention on remand, the pre-trial judge may order any other measure provided for under the present Chapter.

Article 190

Time Limits for Detention on Remand

1. The detainee may be held in detention on remand on the initial order under Article 188 of this Code for a maximum period of one (1) month from the day he or she was arrested. After that time period he or she may be held in detention on remand only under a ruling of the pretrial judge, single trial judge or presiding trial judge ordering an extension of detention on remand.
2. Prior to the filing of an indictment, detention on remand shall not exceed:
 - 2.1. four (4) months, if proceedings are conducted for a criminal offence punishable by imprisonment of less than five (5) years;
 - 2.2. eight (8) months, if proceedings are conducted for a criminal offence punishable by imprisonment of at least five (5) years.
3. In exceptional cases where proceedings are conducted for a criminal offence punishable by imprisonment of at least five (5) years, the case is complex as defined under Article 19 of this Code and the delay is not attributable to the state prosecutor, in addition to the prescribed periods of time provided for in paragraph 2 of this Article, detention on remand prior to the filing of an indictment may be extended by up to four (4) months for a maximum of twelve (12) months in total.
4. Upon a convincing and grounded cause to believe that public danger or a threat of violence exists upon the pretrial release of a defendant, an extension of the detention on remand under Paragraph 3 of this Article can be extended for another six (6) months for a maximum of eighteen (18) months in total.
5. If the indictment is not filed before the expiry of the prescribed periods of time provided for under paragraphs 2, 3 and 4 of the present Article, the detainee shall be released.

Article 191

Extension of Detention on Remand

1. Detention on remand may only be extended by the pretrial judge, single trial judge or presiding trial judge upon the request of the state prosecutor, who shall show that there are grounds for detention on remand under Article 187 of the present Code, that the investigation has been initiated and that all reasonable steps are being taken to conduct the investigation speedily. The injured party or victim advocate may formally or informally ask the state prosecutor to request an extension of detention on remand.
2. The defendant and his or her defense counsel shall be informed of the motion no less than three (3) days prior to the expiry of the current ruling on detention on remand.

3. Each ruling on the extension of detention on remand can be appealed. Article 189 paragraphs 3, and 4 of the present Code shall apply *mutatis mutandis*.

Article 192 **Court Oversight of Detention on Remand**

1. At any time, the pre-trial judge may terminate *ex officio* detention on remand while the investigation is in progress, after giving three days notice to the state prosecutor, who may appeal to a review panel the decision of the pre-trial judge to terminate detention on remand. The review panel shall render a ruling within forty-eight (48) hours of receiving the appeal from the state prosecutor.
2. At any time, the detainee or his or her defense counsel may petition the pre-trial judge, single trial judge, presiding trial judge or president of the basic court to determine the lawfulness of detention or the lawfulness of the conditions of detention.
3. If the detainee is petitioning the lawfulness of detention, the pre-trial judge, single trial judge, presiding trial judge or president of the basic court may conduct a hearing in accordance with Article 188 paragraphs 3, 4, 5, and 6 of the present Code if the petition establishes a *prima facie* case that:
 - 3.1. the grounds for detention on remand in Article 187 of the present Code no longer exist due to changed circumstances or the discovery of new facts since the last court order on detention on remand; or
 - 3.2. detention is unlawful for some other reason.
4. If the detainee is petitioning the lawfulness of detention, at the hearing the pre-trial judge, single trial judge, presiding trial judge or president of the basic court shall order the immediate release of the detainee if:
 - 4.1. the grounds for detention on remand in Article 187 of the present Code no longer exist;
 - 4.2. the period of detention on remand ordered by the court has expired;
 - 4.3. the period of detention on remand ordered by the court exceeds the time-limits set forth in Article 190 of this Code; or
 - 4.4. detention is unlawful for some other reason.
5. If the detainee is petitioning the lawfulness of the conditions of detention, the pre-trial judge, single trial judge, presiding trial judge or president of the basic court may conduct a hearing or visit the detention facility if the petition establishes a *prima facie* case that the conditions of detention do not satisfy the requirements of the present code or conditions exist that do not comply with the European Convention on Human Rights and Fundamental Freedoms, as interpreted by decisions of the European Court on Human Rights.
6. If the detainee is petitioning the lawfulness of the conditions of detention, at the hearing or visit to the detention facility, the pre-trial judge, single trial judge, presiding trial judge or president of the basic court shall order changes to the conditions of detention if they do not comply with a reasonable interpretation of the requirements of the present code or conditions exist that do not reasonably comply with the European Convention on Human Rights and Fundamental Freedoms, as interpreted by decisions of the European Court on Human Rights.

7. Hearings or visits under this Article shall be held within seven (7) days of the receipt of the petition by the court.
8. A petition that is substantially similar to a previous petition shall be immediately dismissed *ex officio*.

Article 193

Detention on Remand After Indictment is Filed

1. After the indictment has been filed and until the conclusion of the main trial, detention on remand may only be ordered, extended or terminated by a ruling of the single trial judge or presiding trial judge or the trial panel when it is in session. The single trial judge or presiding trial judge shall first hear the opinion of the state prosecutor, if proceedings have been initiated at his or her request, and the opinion of the defendant or the defense counsel. The parties may appeal against the ruling. Article 189 paragraphs 3 and 4 of the present Code shall apply *mutatis mutandis*.
2. Upon the expiry of two (2) months from the last ruling on detention on remand, the single trial judge or presiding trial judge, even in the absence of a motion by the parties, shall examine whether reasons for detention on remand still exist and render a ruling by which detention on remand is extended or terminated. The parties may appeal against the ruling. Article 189 paragraphs 3 and 4 of the present Code shall apply *mutatis mutandis*.

4. IMPLEMENTATION OF DETENTION ON REMAND

Article 194

Treatment and Conditions for Detained Persons

1. The personality and dignity of a person held in detention on remand must not be abused. The detainee on remand must be treated in a humane manner and his or her physical and mental health must be protected.
2. Only those restrictions which are necessary to prevent escape or communications that might be harmful to the effective conduct of proceedings may be imposed against a person in detention on remand.

Article 195

Detention Facility

1. Admission to a facility for detention on remand (hereinafter “detention facility”) shall be based on a written ruling of a judge.
2. The detention facility shall be obliged to keep a record of the time of arrival of the detainee on remand at the detention facility and the time when the period of detention on remand ordered in respect of the detainee on remand expires and to inform the detainee on remand and his or her defense counsel about the date of expiry. If the detention facility does not receive a ruling of the court to extend detention on remand after the period in the ruling has expired, it shall immediately release the detainee on remand and inform the competent court of this.

Article 196
Information regarding Detainees

1. The detention facility shall collect, process, store and maintain a database on detainees on remand to ensure the lawful and proper implementation of detention on remand.
2. The database under paragraph 1 of the present Article shall comprise data on:
 - 2.1. the identity and personal status of the detainee on remand;
 - 2.2. the ruling on detention on remand;
 - 2.3. the work performed while in detention on remand;
 - 2.4. admission to the detention facility and the duration, extension and termination of detention on remand; and
 - 2.5. the behavior of the detainee on remand and any disciplinary measures.
3. Data from the database shall be stored and used for the duration of detention on remand; after the detention on remand is terminated, the data shall be archived and stored permanently.
4. The detention facility shall forward the data under paragraph 2 of the present Article to the central records on detainees on remand, and such data may only be used by other persons authorized to use the data by law or pursuant to the written permission or request of the individual to whom the data refers.
5. The Ministry of Justice shall issue an Administrative Direction which shall define in greater detail the data under paragraph 2 of the present Article and procedures in compliance with this Article.

Article 197
Segregation of Detainees

1. Detention on remand shall be served in special detention facilities or in a separate part of a facility for serving prison sentences.
2. A person may not be detained on remand in the same room as a person of the opposite sex. As a rule, persons who participated in committing the same criminal offence shall not be accommodated in the same room and persons serving a sentence shall not be accommodated in the same room as persons in detention on remand. If possible, persons who have repeated a criminal offence shall not be accommodated in the same room as other persons in detention whom they could negatively influence.
3. The competent court may transfer a detainee on remand from one detention facility to another for reasons of safety, order and discipline or for the successful and reasonable conduct of criminal proceedings, on the motion of the director of the detention facility in which the detainee on remand is accommodated.

Article 198
Items Detainees Are Permitted to Have and Use

While in detention on remand, detainees on remand may have on their person and use items for personal use, items for maintaining hygiene, equipment to receive public

media, printed matter, professional and other literature, money and other items which in view of their size and quantity facilitate normal activities in the living area and which do not disturb other detainees on remand. Other items shall be confiscated and put into storage during a personal inspection of the detainee on remand.

Article 199

Detainees are Entitled to Rest, Exercise and Payment for Work Performed

1. Detainees on remand have the right to eight (8) hours of uninterrupted rest every twenty-four (24) hours. In addition, detainees on remand must be guaranteed at least two (2) hours of outdoor exercise per day.
2. Detainees on remand may perform work that is necessary to maintain order and cleanliness in their area. To the extent that the institution has the facilities and on condition that it is not harmful to the conduct of criminal proceedings, detainees on remand shall be allowed to work in activities which suit their mental and physical abilities. The pre-trial judge, single trial judge or presiding trial judge shall decide on this in agreement with the management of the detention facility.
3. Detainees on remand are entitled to payment for work performed. The Ministry of Justice shall issue an Administrative Direction setting forth the manner and amount of payment.

Article 200

Visitation and Right to Communicate

1. With the permission of the pre-trial judge, single trial judge or presiding trial judge and under his or her supervision or the supervision of someone appointed by such judge, the detainee on remand may receive visits from close relatives and, upon his or her request, from a doctor or other persons, within the limits of the rules of the detention facility. Certain visits may be prohibited if they might be harmful to the conduct of the proceedings.
2. With the knowledge of the pre-trial judge, single trial judge or presiding trial judge, representatives from an embassy, liaison office, or diplomatic mission shall have the right to visit and to talk without supervision to detainees on remand who are nationals of their country. Representatives of competent international organizations shall have the same right to visit and talk to detainees on remand who are refugees or otherwise under the protection of such international organizations.
3. The Ombudsperson of Kosovo or his or her deputy may visit detainees on remand and may correspond with them without prior notification and without the supervision of the pre-trial judge, single trial judge or presiding trial judge or other persons appointed by such judge. Letters from detainees on remand to the Office of the Ombudsperson of Kosovo may not be examined. The Ombudsperson and his or her deputy may communicate confidentially with detainees on remand orally and in writing. Communications between a detainee on remand and the Ombudsperson and his or her deputy may be within the sight but not within the hearing of a police officer.

4. Detainees on remand may correspond or have other contacts with persons outside the detention facility with the knowledge and under the supervision of the pre-trial judge, single trial judge or presiding trial judge. The pre-trial judge, single trial judge or presiding trial judge may, after consulting the state prosecutor, prohibit letters and other packages being received or sent or contacts being established which are harmful to the proceedings, but may not prohibit detainees on remand from sending requests or appeals or from communicating with their defense counsel.
5. When the pre-trial, single trial judge or presiding trial judge refuses a visit pursuant to paragraph 1 of the present Article or prohibits communication pursuant to paragraph 4 of the present Article, the detainee on remand may apply to the review panel to grant such permission.
6. Following the filing of indictment and until the rendering of final judgment, the single trial judge or the presiding trial judge shall decide on all matters from paragraphs 1-4 of this Article, whereas paragraph 5 of this Article shall apply *mutatis mutandis*.

Article 201 Discipline of Detainees

1. The pre-trial judge, single trial judge or the presiding trial judge may impose a disciplinary punishment of a prohibition or restriction on visits and correspondence on a detainee on remand who has committed a disciplinary breach.
2. A disciplinary breach includes:
 - 2.1. a physical attack on other detainees on remand, employees of the detention facility or other official persons;
 - 2.2. the production, acceptance or introduction of items for attacks or escape;
 - 2.3. the production or introduction of alcoholic beverages and narcotics and their distribution;
 - 2.4. a violation of regulations on safety at work, fire safety and the prevention of the consequences of natural disasters;
 - 2.5. repeated violations of the internal order of the detention facility;
 - 2.6. causing serious material damage intentionally or through serious negligence; or
 - 2.7. insulting and undignified behavior.
3. A restriction or prohibition of a visit or correspondence shall not apply to visits by or correspondence with defense counsel, doctors, the Ombudsperson of Kosovo, representatives of an embassy, liaison office, or diplomatic mission of the State of which the detainee on remand is a national or, in the case of a refugee or a person otherwise under the protection of an international organization, representatives of the competent organization.
4. An appeal may be filed with the review panel against a ruling on a punishment imposed under paragraph 1 of the present Article within twenty-four (24) hours of receipt thereof. The appeal shall not stay execution of the ruling.
5. The Panel shall decide on the appeal within forty-eight (48) hours.

Article 202
Application of the Law on the Execution of Penal Sanctions to Detainees on Remand

Unless otherwise provided for by the present Code and by other legislation issued pursuant to it, the provisions of the Law on the Execution of Penal Sanctions, or any successor law, shall apply *mutatis mutandis* to monitoring, pursuit, surveillance, maintenance of order and discipline, the use of force, personal search and search of premises in the case of detainees on remand.

Article 203
Supervision of the Treatment of Detainees

1. The competent President of the Basic Court has the ultimate responsibility to supervise the treatment of detainees on remand.
2. The competent president of the Basic Court and the judge who ordered detention on remand may, at any time, visit detainees on remand, talk to them and accept complaints.
3. The duties under this Article do not diminish the duties of the competent judge under Article 192 of this Code to evaluate petitions by detainees with valid complaints about the conditions of detention and correct unlawful conditions.

CHAPTER XI
RECORDS

A. Creation and Maintenance of Records

Article 204
Record of Action in Criminal Proceeding

1. A record shall be kept of each action undertaken in the course of criminal proceedings at the same time as the action is undertaken, and if this is not possible, immediately thereafter.
2. The record shall be written by the recording clerk of the court or, when the actions are undertaken in front of the state prosecutor, by the recording clerk of the state prosecutor's office. The record may be written by the person undertaking the action, only when a search is made of premises or a person or when an action is undertaken outside the offices of the relevant official body or competent authority and the recording clerk is not available.
3. When the record is written by the recording clerk, the person undertaking the action shall tell the recording clerk orally what shall be entered in the record.
4. A person being examined shall be allowed to state his or her answers for the record in his or her own words. This right may be denied if it is abused.
5. When the pretrial interview, pretrial testimony or special investigative opportunity requires the session to be recorded by audio- or audio-video recording, a copy of the recording shall be included with the record.

Article 205
Entries into the Record

1. The entry in the record shall include the name of the official body or competent authority before which the action is being undertaken, the place where the action is being undertaken, the date and the hour when the action began and ended, the names and surnames of the persons present and the status in which they are present, and the identification number of the criminal case in which the action is being undertaken.
2. In the event of the exercise of an action in accordance with the law, the party to the action shall be informed of the rights that belong to him or her by law. The fact that such information has been given as well as whether the party has made use of such rights must be noted in the record.
3. The party to the action shall verify by means of a signature that he or she has been allowed to exercise the rights that belong to him or her by law.
4. The record should contain the essential information about the implementation and content of the action undertaken. If physical objects or papers are confiscated in the course of the implementation of the action, this shall be indicated in the record and the Articles taken shall be attached to the record or the place where they are being kept shall be indicated.
5. In the conduct of an action, such as a site inspection, a search of premises, vehicles or persons, or the identification of persons or objects, information which is important with regard to the nature of such action or for establishing the identity of certain Articles (the description, dimensions and size of the Articles or of traces that have been left, placing identifying labels on Articles, and so on) shall also be entered in the record; and if sketches, drawings, layouts, photographs, films, or other technical recordings are made, these shall be entered in and attached to the record.
6. Documents or physical items which are referred to during the pretrial interview, pretrial testimony or special investigative opportunity shall be identified with exhibit numbers. The documents or physical items shall be referred to during the pretrial interview, pretrial testimony or special investigative opportunity by their exhibit numbers, and shall be referred to in the record by their exhibit numbers.

Article 206
Integrity of the Record

1. The record must be kept up to date; nothing in it may be deleted, added or amended. The sections which have been crossed out must remain legible.
2. All changes, corrections, and additions shall be noted at the end of the record and must be certified by the persons signing the record.

Article 207
Review of the Record

1. The person against whom an investigative action is undertaken, the persons who must be present during the investigative action, as well as the parties, the defense

counsel and the injured party, if they are present, have the right to read the record or to request that it be read to them. The person undertaking the investigative action must make them aware of this right, and it shall be noted in the record whether they have been so informed and whether the record has been read. The record shall always be read if the recording clerk is not present and this shall be noted in the record.

2. The record of an examination shall be signed by the person who is being examined. If the record consists of more than one page, the person examined shall sign each page.
3. The record shall be signed at the end by the interpreter, if there was one, by the witnesses whose presence was compulsory during the conduct of the investigative action and in the case of a search it shall also be signed by the person searched or the person whose premises have been searched. If the record is not signed by the recording clerk, the record shall be signed by those persons who attended the proceedings. If there are no such persons, or if they are unable to understand the content of the record, the record shall be signed by two (2) witnesses, unless it has not been possible to ensure their presence.
4. Any person who does not know how to write shall place the print of the index finger of his or her right hand in place of a signature and the recording clerk shall enter his or her first and last name underneath the fingerprint. When it is not possible to make a fingerprint of the right index finger, the print of some other finger or the print of a finger of the left hand shall be made and the record shall indicate the finger and hand from which the print has been taken.
5. If the person examined has neither hand, he or she shall read the record of the examination, and, if he or she does not know how to read, the record of the examination shall be read to him and this shall be noted in the record.
6. If the investigative action could not be undertaken without interruption, the record shall indicate the day and hour when the interruption occurred and the day and hour when the investigative action resumed.
7. If there have been objections pertaining to the content of the record, those objections shall also be indicated in the record.
8. The record shall be signed at the end by the person who undertook the investigative action and by the recording clerk.
9. If the person who in accordance with the present Code must sign the record refuses to sign it or to place his or her fingerprint on it, this shall be noted in the record along with the reason for the refusal.

Article 208

Recording of Sessions by Audio Recording or Audio-Video Recording

1. Applicable sessions of pretrial testimony or special investigative opportunity session, or any other examination or interview as necessary, shall be video-recorded or audio-recorded in accordance with the following procedure:
 - 1.1. the person examined shall be informed, in a language he or she fully understands and speaks that the examination is to be audio- or video-recorded.

- 1.2. the recording must include the data under Article 205 paragraph 1 of the present Code and the appropriate notification under Article 125 of the present Code, as well as the information needed to identify the persons whose statements are being recorded. When the statements of several persons are being recorded, it is necessary to ensure that it is possible to identify clearly from the recording who made which statement.
 - 1.3. in the event of an interruption in the course of the examination, the fact and the time of the interruption shall be recorded before the audio- or video-recording ends as well as the time of resumption of the examination.
 - 1.4. at the conclusion of the examination, the person being examined shall be offered the opportunity to clarify anything he or she has said and add anything he or she may wish. At the request of the examined person, the recording shall be immediately played back and corrections and explanations of that person shall be recorded. The time of conclusion of the examination shall always be noted.
2. At the discretion of the state prosecutor or upon the order of the pretrial judge, single trial judge or presiding trial judge, the content of the tape may be transcribed. If it is transcribed, the transcript shall be completed as soon as practicable after the conclusion of the examination and, upon the request of the person examined, a copy of the transcript shall be supplied to him.
3. At least four (4) copies of the audio or audio-video recording under this Article shall be made on CD or DVD disks, or their functional equivalent, and placed with the written record of the examination in the case file. One master copy shall remain with the case file at all times, one copy shall be provided to each defence counsel at the time of indictment, one copy shall be available to the victim advocate or victim representative, one copy shall be retained by the state prosecutor.
4. The written record of the examination shall indicate or include:
 - 4.1. the fact that the examination was recorded by an audio-recording or video-recording device;
 - 4.2. the name of the person who performed the recording;
 - 4.3. the names of the people present during the recorded session;
 - 4.4. the fact that the examined person was informed in advance of the intent to record the examination;
 - 4.5. whether the recording was played back;
 - 4.6. a summary of the testimony; and
 - 4.7. copies of any exhibits shown to the person being examined.
5. After making the required copies, the Recording Clerk shall seal the master copy of the recording and shall sign and file statement that the recording had not been altered or edited and is a true recording of the session.
6. If a technical error occurs in the making of the audio or audio-video recording, the person whose testimony or examination is being recorded shall be advised of the technical error while being recorded, and shall be re-questioned on issues or answers whose recording was affected by the technical error or he or she will be allowed to make corrections on issues or answers whose recording was affected by the technical error.
7. The audio or audio-video recording of the session may not be edited or altered. If

an indictment is filed in the criminal proceeding for which the session was recorded, the presiding judge may rule an audio or audio-video recording of a session to be inadmissible if there is grounded cause to believe that the recording was edited or altered. Grounded cause under this paragraph cannot be premised solely upon a difference in testimony by the witness.

8. Personal data about the defendant, injured party or witness which are recorded are confidential and may be used only in the course of criminal proceedings. A violation of this Paragraph shall be considered a breach of the ethical duties of the practitioner involved and may be sanctioned by the Court.

Article 209

Recording of Actions by Audio-Recording or Audio-Video Recording

The state prosecutor, the pre-trial judge, single trial judge or the presiding trial judge may order that investigatory actions other than examinations be video-recorded or audio-recorded. Article 208 of the present Code shall apply *mutatis mutandis*.

Article 210

Use of Shorthand or Typewriter, Stenography and Transcription

The state prosecutor, the pre-trial judge, single-trial judge or the presiding trial judge may order that an investigative action in the proceedings or parts of it be taken down in shorthand or on a stenographic machine. The stenographic record shall within forty-eight (48) hours be transcribed, checked and attached to the record.

Article 211

Recording by Others

1. The pre-trial judge may permit other persons who have a legitimate interest to audio or video-record specific investigative actions, if this would have an insignificant influence on the rights, especially the right to privacy, of the defendant, the injured party, witnesses, and other participants in the proceedings. Personal details about the defendant, injured party or witness are confidential and may be used only in the course of criminal proceedings.
2. On the motion of a party or *ab initio* the president of the Court may exceptionally authorize such recordings provided for in paragraph 1 of the present Article in the case of a main trial.
3. The parties and the defense counsel may make an audio-recording of the main trial which is held in open court. Personal data about the defendant, injured party or witness which are recorded are confidential and may be used only in the course of criminal proceedings. An audio-recording made under this paragraph shall not be played to a witness.
4. Where the recording of the main trial is permitted, the single trial judge or presiding trial judge may for justifiable reasons prohibit the recording of specific parts of the session.

Article 212
The Case File

1. All records, reports, recordings, transcripts, evidence, orders, decisions, requests, appeals, judgments or other documents relevant and important to the criminal proceeding shall be maintained in a case file.
2. The case file shall be maintained in an orderly manner by the responsible clerk.
3. The Kosovo Prosecutorial Council and Kosovo Judicial Council are empowered to set rules on internal handling of case file within prosecutors' offices and the courts, respectively.

B. Inspection of Records and the Case File

Article 213
Access to the Case File by Suspects and Defendants

1. During initial steps by the police, the suspect shall have access to the evidence that is collected upon his or her request, except when paragraph 6 or 7 of this Article is applied *mutatis mutandis*
2. At the initiation of the investigative stage, the state prosecutor has a positive obligation to provide access to the case file to any named defendant or their defense counsel, subject to the exceptions within this Article.
3. At no time during the investigative stage may the defense be refused inspection of records of the examination of the defendant, material obtained from or belonging to the defendant, material concerning such investigative actions to which defense counsel has been or should have been admitted or expert analyses.
4. Upon completion of the investigation, the defense shall be entitled to inspect, copy or photograph all records and physical evidence available to the court.
5. Upon the filing of an indictment, the defendant or defendants named in the indictment may be provided with a copy or copies, respectively, of the case file.
6. In addition to the rights enjoyed by the defense under paragraphs 2, 3 and 4 of the present Article, the defense shall be permitted by the state prosecutor to inspect, copy or photograph any records, books, documents, photographs and other tangible objects in the possession, custody or control of the state prosecutor which are material to the preparation of the defense or are intended for use by the state prosecutor as evidence for the purposes of the main trial, as the case may be, or were obtained from or belonged to the defendant. The state prosecutor may refuse to allow the defense to inspect, copy or photograph specific records, books, documents, photographs and other tangible objects in his or her possession, custody or control if there is a sound probability that the inspection, copying or photographing may endanger the purpose of the investigation or the lives or health of people. In such case, the defense can apply to the pre-trial judge, single trial judge or presiding trial judge to grant the inspection, copying or photocopying. The decision of the judge is final.
7. Information can be redacted or marked out by a thick black line to obscure specific information by the state prosecutor on copies of documents that contain sensitive

information. The defendant may challenge the redaction with the pretrial judge, single trial judge or presiding trial judge within three (3) days of receiving the redacted copy. The state prosecutor shall be permitted the opportunity to explain the legal basis of the redaction without disclosing the sensitive information. The judge shall review the redacted information and shall decide within three (3) days whether the redaction is legally justified.

8. Provisions of the present Article are subject to the measures protecting injured parties and witnesses and their privacy and the protection of confidential information as provided for by law.

Article 214

Access to the Case File by the Injured Party and Victim Advocate

1. The injured party, his or her legal representative or authorized representative, or victim advocate shall be entitled to inspect, copy or photograph records and physical evidence available to the court or to the state prosecutor if he or she has a legitimate interest.
2. The court or state prosecutor may refuse to permit the inspection, copying or photocopying of records or physical evidence if the legitimate interests of the defendant or other persons override the interest of the injured party or if there is a sound probability that the inspection, copying or photocopying may endanger the purpose of the investigation or the lives or health of people or would considerably delay the proceedings or if the injured party has not yet been examined as a witness.
3. If the state prosecutor refuses the inspection of the files, the injured party can file an appeal with the pre-trial judge. The decision of the pre-trial judge is final.
4. If the pre-trial judge refuses the inspection of the files available to the court, an appeal can be filed with the review panel.
5. Information can be redacted or marked out by a thick black line to obscure specific information by the state prosecutor on copies of documents that contain sensitive information.
6. The provisions of the present Article are subject to the measures protecting injured parties and witnesses and their privacy and the protection of confidential information as provided for by law, including Chapter XIII of the present Code.

Article 215

Qualifications of Interpreters or Translators

1. A person serving as an interpreter or translator under the present code should be qualified to interpret or translate as follows:
 - 1.1. if available, an interpreter or translator should be certified as an interpreter or translator in the relevant languages in compliance with regulations issued under Paragraph 2 of this Article.
 - 1.2. if an interpreter or translator under paragraph 1, subparagraph 1.1 of this Article is unavailable, the interpreter or translator should have a degree in the language or languages involved and at least two (2) years experience as an interpreter or translator,

- 1.3. if an interpreter or translator under paragraph 1, subparagraphs 1.1 and 1.2 of this Article is unavailable, the interpreter or translator should have at least four (4) years experience as an interpreter or translator in the language or languages involved, or
- 1.4. if an interpreter or translator under paragraph 1, subparagraphs 1.1, 1.2 and 1.3 of this Article is unavailable, the interpreter or translator should have demonstrated sufficient proficiency in the relevant languages to interpret or translate accurately and without bias.
2. The Ministry of Justice is empowered to issue regulations on the certification of translators and interpreters as competent to interpret and translate professionally in criminal proceedings in those languages commonly used in criminal proceedings.

CHAPTER XII EVIDENCE DURING INVESTIGATION

A. Application of the Defendant or the Injured Party to Collect or Preserve Evidence

Article 216

Application by the Defendant to Collect or Preserve Evidence

1. During the investigation the defendant may apply to the state prosecutor to collect certain evidence.
2. The state prosecutor shall collect such evidence or testimony if it is relevant to the proceedings and:
 - 2.1. if there is a danger that the evidence or testimony will be lost or is unlikely to be available for trial,
 - 2.2. if such evidence may justify the release of the defendant from detention on remand,
 - 2.3. if the evidence or testimony sought has a reasonable probability that it will be exculpatory, or
 - 2.4. if there are other justified reasons to collect such evidence or testimony.
3. If the defendant or defence counsel applies to the state prosecutor to collect certain evidence that is located outside of Kosovo, the state prosecutor may collect such evidence in compliance with Article 219 of this Code.
4. If the state prosecutor rejects the application to collect evidence, he or she shall render a decision supported by reasoning and notify the defendant. The defendant may appeal such decision to the pre-trial judge.

Article 217

Application by the Injured Party to Collect or Preserve Evidence

1. During the investigation the injured party may apply to the state prosecutor to collect certain evidence.
2. The state prosecutor shall collect such evidence or testimony if it is relevant to the proceedings and:

- 2.1. if there is a danger that the evidence or testimony will be lost or is unlikely to be available for trial,
- 2.2. if such evidence may be efficient to take with other evidence sought by the state prosecutor, or
- 2.3. is directly relevant to a claim filed by the injured party in the criminal proceedings.
3. If the injured party applies to the state prosecutor to collect certain evidence that is located outside of Kosovo, the state prosecutor may collect such evidence in compliance with Article 219 of this Code.
4. If the state prosecutor rejects the application to collect evidence, he or she shall render a decision supported by reasoning and notify the injured party, the injured party's authorized representative, or victim advocate. The injured party, the injured party's authorized representative, or victim advocate may appeal such decision to the pre-trial judge.

Article 218 **Declaration of Damages by Injured Party**

1. During the investigatory stage or within sixty (60) days of the filing of the indictment, the injured party may file a simple declaration of damage from the charged criminal offence. The victim advocate may assist the injured party in filing a declaration of damage. The victim advocate's office may issue a standard form for a declaration on damage that shall satisfy this Article.
2. The declaration may be filed anonymously if permitted by the Court and if the identity of the victim is disclosed to the Court.
3. The Declaration of Damage shall describe:
 - 3.1. the person who caused the damage,
 - 3.2. how the damage occurred,
 - 3.3. how the damage was caused by, or was a foreseeable result of the criminal offence, and
 - 3.4. if there were costs due to the damage or the loss caused by the criminal offence, the declaration shall provide a reasonable estimate of the costs or losses.
4. Damaged party who has not properly filed a declaration of damage.
5. A Court may consider a damaged party who refuses to file a declaration of damage not to be a party to the criminal proceedings.
6. If the declaration of damage provides an estimate of the costs or losses, it shall also serve as a property claim.

Article 219 **International Requests**

1. The state prosecutor or competent judge shall, at the earliest possible time, initiate international legal requests, requests for extraditions, requests for prisoner transfers or requests for executions of judgments.
2. All international requests shall be made in compliance with the Law on

International Legal Cooperation in Criminal Matters, Nr. 04/L-31, or successor law.

3. The state prosecutor or competent judge shall make all international requests in consultation and compliance with the Office of International Legal Cooperation in the Ministry of Justice, or successor agency.
4. The Minister of Justice shall have final approval of all international requests made to foreign governments.
5. The state prosecutor or competent judge shall not speak to media about pending or intended international requests but shall refer the media to the Ministry of Justice.
6. Evidence obtained informally from foreign governments, law enforcement agencies, prosecutors or courts shall be admissible if accompanied by a statement from that foreign government, law enforcement agency, prosecutor or court which demonstrates that the evidence is reliable and was obtained in accordance with the law of that foreign state. Such evidence may not form the sole or decisive basis for a finding of guilt. Such information shall be accompanied at the main trial by a notice of corroboration under Article 263 of this Code.
7. If the Office of International Legal Cooperation receives and approves a request for assistance from a foreign government, the Office of International Legal Cooperation shall assign the request to the appropriate state prosecutor, who shall initiate a criminal proceeding with the limited purpose of obtaining the requested information or performing the requested action. If the requested information or action is not permitted by the law or is not possible to obtain or perform, the state prosecutor shall inform the Office of International Cooperation and shall terminate the criminal proceeding.

CHAPTER XIII PROTECTION OF INJURED PARTIES AND WITNESSES

Article 220 Definitions

1. For purposes of the present Chapter, the following definitions shall apply:
 - 1.1. the term “**serious risk**” means a warranted fear of danger to the life, physical or mental health or property of the injured party, cooperative witness, witness or a family member of an injured party or witness as an anticipated consequence of the injured party, cooperative witness or witness giving evidence during an examination or testimony in court;
 - 1.2. the term “**family member**” means the spouse, extra-marital partner, a person blood relation in a direct line, an adoptive parent, an adopted child, a brother, a sister or a foster parent;
 - 1.3. the term “**anonymity**” means the absence of revealed information regarding the identity or whereabouts of an injured party, cooperative witness or witness or the identity or whereabouts of a family member of an injured party, cooperative witness or witness or the identity of any person who is associated with an injured party, cooperative witness or a witness.

Article 221
Petition for Protective Measure or Anonymity

1. At any stage of the proceedings, the state prosecutor, defendant, defence counsel, injured party, cooperative witness or witness may file a written petition with the competent judge for a protective measure or an order for anonymity if there is a serious risk to an injured party, cooperative witness, witness or his or her family member.
2. The petition shall contain a declaration of factual allegations. The competent judge shall file the petition and declaration in a sealed envelope and only the competent judge over the stage of the proceedings and the state prosecutor may have access to the sealed contents.
3. After receipt of the petition, the competent judge may order appropriate protective measures for an injured party, cooperative witness or a witness, or if he or she deems it necessary prior to making a decision on the petition, convene a closed hearing to hear further information from the state prosecutor, the defendant, the defence counsel, the injured parties, cooperative witness or the witnesses. In the case of a petition requesting an order made pursuant to Articles 223 and 224 of the present Code, the competent judge shall convene a hearing in closed session.
4. The competent judge may make an order for a protective measure for an injured party, cooperative witness or witness where he or she determines that:
 - 4.1. there exists a serious risk to the injured party, cooperative witness, witness or his or her family member; and
 - 4.2. the protective measure is necessary to prevent serious risk to the injured party, cooperative witness, witness or his or her family member.
5. The state prosecutor shall be immediately notified by the competent judge of any petition made by the defendant, defence counsel, injured party, cooperative witness or witness and is entitled to make recommendations and statements regarding the facts to the competent judge at a hearing and in writing if there is no hearing ordered by the competent judge.

Article 222
Order for Protective Measures

1. The competent judge may order such protective measures as he or she considers necessary, including but not limited to:
 - 1.1. omitting or expunging names, addresses, place of work, profession or any other data or information that could be used to identify the injured party, cooperative witness or witness;
 - 1.2. non-disclosure of any records identifying the injured party, cooperative witness or witness;
 - 1.3. efforts to conceal the features or physical description of the injured party, cooperative witness or witness giving testimony, including testifying behind an opaque shield or through image or voice-altering devices, contemporaneous examination in another place communicated to the courtroom by means of closed-circuit television, or video-taped examination prior to the court hearing with the defence counsel present;

- 1.4. assignment of a pseudonym;
 - 1.5. closed sessions to the public;
 - 1.6. orders to the defence counsel not to disclose the identity of the injured party, cooperative witness or witness or not to disclose any materials or information that may lead to disclosure of identity;
 - 1.7. temporary removal of the defendant from the courtroom if a cooperative witness or witness refuses to give testimony in the presence of the defendant or if circumstances indicate to the court that the witness will not speak the truth in the presence of the defendant; or
 - 1.8. any combination of the above methods to prevent disclosure of the identity of the injured party, cooperative witness or witness.
2. Other provisions of the present Code shall not apply where they conflict with protective measures under paragraph 1 of the present Article.
 3. An order for a protective measure shall be in writing and shall not contain any information which could lead to the discovery of the identity of the injured party, cooperative witness, witness or his or her family member, or which could reveal the existence of, or expose to serious risk, the operational security of ongoing and confidential police investigations.
 4. Once a protective measure has been ordered in respect of an injured party, cooperative witness or witness, the petitioning party may subsequently request an amendment of a protective measure. Only the competent judge of the stage of the proceedings may amend or rescind the order, or authorize the release of protected material to another judge for use in other proceedings. If, at the time of a request for amendment or release, the original court no longer has jurisdiction over the case, the competent judge at the court which has jurisdiction may authorize such amendment or release, after giving written notice to, and hearing any argument of, the state prosecutor.

Article 223

Order for Anonymity from the Public

1. Where protective measures under Article 222 paragraph 1 of the present Code are insufficient to guarantee the protection of a witness proposed by the defence, the competent judge may in exceptional circumstances make an order for anonymity whereby a witness proposed by the defence shall remain anonymous to the public, the injured party and their legal representatives or authorized representatives.
2. Before making an order for anonymity, the competent judge shall conduct a hearing, in a closed session, at which the witness at issue and other persons deemed necessary, such as police and military personnel providing security, shall be examined. Apart from these persons, only the state prosecutor, essential court and prosecution personnel and the defence counsel may be present.
3. The competent judge can only issue an order for anonymity if he or she first finds that:
 - 3.1. there exists a serious risk to the witness or his or her family member and the complete anonymity of the witness is necessary to prevent such serious risk;
 - 3.2. the testimony of the witness is relevant to a material issue in the case so as to make it unfair to compel the defence to proceed without it;

- 3.3. the credibility of the witness has been fully investigated and disclosed to the judge in a closed session; and
- 3.4. the need for anonymity of the witness to provide justice outweighs the effect of the interest of the public or the injured party in knowing the identity of the witness in the conduct of the proceedings.

Article 224

Order for Anonymity from the Defendant

1. Where protective measures provided under Article 222 paragraph 1 of the present Code are insufficient to guarantee the protection of an injured party, cooperative witness or witness not proposed by the defence, the competent judge may in exceptional circumstances make an order for anonymity whereby the injured party, cooperative witness or witness shall remain anonymous to the defendant and the defence counsel.
2. The state prosecutor shall request an order for anonymity from the defendant only by a written motion filed under seal which describes facts that demonstrate that:
 - 2.1. there exists a serious risk to the injured party, cooperative witness or witness who would be subject to the order for anonymity, and
 - 2.2. anonymity would prevent the serious risk to the injured party, cooperative witness or witness.
3. A court shall not issue an order under this Article based on a request under paragraph 2 of this Article which is based on a general description of danger to witnesses in similar cases.
4. Before making an order for anonymity, the competent judge shall conduct a hearing, in a closed session, at which the injured party, cooperative witness or witness at issue and other persons deemed necessary, such as police or military personnel providing security, shall be examined. Apart from these persons, only the state prosecutor, and essential court and prosecution personnel may be present.
5. The competent judge can only issue such order for anonymity if he or she finds that:
 - 5.1. there exists a serious risk to the injured party, cooperative witness or witness or to his or her family member and the complete anonymity of the injured party, cooperative witness or witness is necessary to prevent such serious risk;
 - 5.2. the testimony of the injured party, cooperative witness or witness is relevant to a material issue in the case so as to make it unfair to compel the prosecution to proceed without it;
 - 5.3. the credibility of the injured party, cooperative witness or witness has been fully investigated and disclosed to the competent judge in a closed session; and
 - 5.4. the need for anonymity of the injured party, cooperative witness or witness to provide justice outweighs the interest of the defendant in knowing the identity of the injured party, cooperative witness or witness in the conduct of the defence.

Article 225
Form of Order for Anonymity

1. An order for anonymity shall be in writing and shall not contain any information which could lead to the discovery of the identity of the injured party, cooperative witness, witness or his or her family member or which could reveal the existence of or expose to serious risk the operational security of ongoing and confidential police investigations.
2. Information in the record of the closed session shall be removed from the record and sealed and stored as an official secret immediately after the identification and prior to examination of the injured party, competent witness or witness.
3. The restricted data may be inspected and used by the state prosecutor and the competent judge only in an appeal against an order issued under Article 223 or 224 of the present Code. An appeal against an order for anonymity and the use of methods to prevent disclosure of identity to the public, injured parties, witnesses, defence counsel and the defendant may be made to a review panel, if the order has been issued by a pre-trial judge. Otherwise it may only be appealed in an appeal of the judgment.

Article 226
Prohibition of Questions that may Reveal Identity

The court shall prohibit all questions to which the answers could reveal the identity of an injured party, cooperative witness or witness protected by a protective measure or restricted information.

Article 227
Witness Protection

Special and Extraordinary measures, ways and procedures for witness protection and cooperative witnesses are governed by the Law on Witness Protection, Law No. 04/L-015.

Article 228
Additional Protective Measures in Cases of Domestic Violence

Protection measures in cases of Domestic Violence before the Basic Court are governed by the Law on Protection Against Domestic Violence, Law No. 03/L-182.

CHAPTER XIV
ALTERNATIVE PROCEEDINGS

Article 229
Alternative Proceedings

The state prosecutor shall consider and use alternative proceedings under this chapter or diversion under Article 184 of the present Code when such proceedings or diversion

would comply with the duties and competencies of the state prosecutor under Article 49 of the present Code.

Article 230
Provisional Suspension of Proceedings

1. The state prosecutor may suspend the criminal prosecution of a criminal offence punishable by a fine or imprisonment of up to three (3) years, with the consent of the injured party taking into account the nature, circumstances and character of the criminal offence and the perpetrator, if the defendant undertakes to behave as instructed by the state prosecutor and to fulfill certain obligations to relieve or remove the harmful consequences of the criminal offence, including:
 - 1.1. the elimination of, or compensation for, damage;
 - 1.2. the payment of a contribution to a public institution or a charity or fund for compensation for damage to victims of criminal offences; or
 - 1.3. the performance of work in public interest.
2. If the defendant fulfils the obligation within a prescribed period of time not exceeding six (6) months, the criminal report shall be dismissed or the investigation shall be terminated.
3. If the defendant fails to act in accordance with his or her undertaking under paragraph 1 of the present Article, the state prosecutor may recommence the prosecution of the criminal offence.
4. The present Article shall not apply in cases of domestic or sexual violence.

Article 231
Conditions when Prosecution is not Obligatory

1. The state prosecutor shall not be obliged to initiate a criminal prosecution or may abandon prosecution:
 - 1.1. if the criminal law provides that the court may waive the punishment of a perpetrator of a criminal offence and the state prosecutor determines that in view of the actual circumstances of the case a judgment alone without a criminal sanction is not necessary; or
 - 1.2. if the perpetrator of a criminal offence punishable by a fine or imprisonment of up to one (1) year expresses genuine remorse over the criminal offence and has prevented harmful consequences or compensated for damage and the state prosecutor determines that in view of the actual circumstances of the case a criminal sanction would not be justified.

Article 232
Mediation Proceedings

1. The state prosecutor may refer the criminal report on a criminal offence punishable by a fine or by imprisonment of up to three (3) years for mediation. Before so doing, the state prosecutor shall take account of the type and nature of the act, the circumstances in which it was committed, the personality of the perpetrator and his

- or her prior convictions for the same criminal offence or for other criminal offences, as well as his or her degree of criminal liability.
2. The mediation shall be conducted by an independent mediator. The mediator shall be obliged to accept a case referred by the state prosecutor and shall be obliged to take measures to ensure the contents of the agreement are proportionate to the seriousness and consequences of the act.
 3. An agreement may only be reached through mediation with the consent of the defendant and the injured party.
 4. On receiving notification that an agreement has been reached, the state prosecutor shall dismiss the criminal report. The mediator is obliged to inform the state prosecutor of a failure to reach an agreement and the reasons for such failure. The length of time for reaching an agreement may not exceed three (3) months.
 5. An agreement concluded due to mediation shall be enforceable, *mutatis mutandis*, under the Law on Obligational Relationships and the Law on Mediation, or successor law.

Article 233 **Negotiated Pleas of Guilty**

1. At any time prior to the filing of the indictment, the state prosecutor and the defense counsel may negotiate the terms of a written plea agreement under which the defendant and state prosecutor agree to the charges of an indictment and the defendant agrees to plead guilty in return for:
 - 1.1. the state prosecutor's agreement to recommend a more lenient punishment to the court, but not under one below the minimum provided for by law or the minimum set under paragraph 7 of this Article; or
 - 1.2. other considerations in the interest of justice, such as the waiver of the punishment as foreseen by Article 234 of the present Code.
2. At any time following the filing of the indictment and before the completion of the main trial, the state prosecutor and the defense counsel may negotiate the terms of a written plea agreement under which the defendant agrees to plead guilty in return for:
 - 2.1. the state prosecutor's agreement to recommend a more lenient punishment to the court, but not under one below the minimum provided for by law or the minimum set under paragraph 7 of this Article; or
 - 2.2. other consideration in the interests of justice, such as the waiver of the punishment as foreseen by Article 234 of the present Code.
3. In cases when the defendant wishes to enter into a guilty plea agreement, the defendant's counsel, or the defendant if not represented by counsel, shall request the state prosecutor for a preliminary meeting to commence negotiations for a plea agreement. At all such negotiations, a defendant must be represented by counsel, in accordance with paragraph 1 of this Article.
4. Upon receiving a request for a preliminary meeting, the state prosecutor shall inform the chief of his or her respective office, who shall give written authorization for such meeting for plea agreement discussions, at which the defendant's statements will be given limited immunity as provided in paragraph 11 of this

- Article. All plea agreements must be in writing and cleared by the Chief of the respective state prosecutor's office before being formally offered to the defendant.
5. In cases when the state prosecutor wishes to enter into a guilty plea agreement, the state prosecutor shall obtain the approval of the Chief of his or her respective office to commence negotiations for a plea agreement. Upon the approval of the Chief of his or her respective office, the state prosecutor shall either:
 - 5.1. send a letter to the defense counsel with a description of the offered plea agreement, including the terms required under paragraph 12 of this Article, or
 - 5.2. meet with the defense counsel and defendant to negotiate the possibility of and terms for a plea agreement. paragraph 4 of this Article shall apply *mutatis mutandis*.
 6. The written plea agreement may include a provision that the state prosecutor will make an application under Article 236 of the present Code, to the court to issue an order declaring the defendant be a "co-operative witness" as defined in Article 235 of the present Code. If such defendant provides assistance, as a co-operative witness, the state prosecutor shall recommend to the court more lenient punishment in accordance with paragraph 7 of this Article that reflects the extent of the assistance and cooperation provided by the defendant, while taking into account the severity of the criminal charges.
 7. Pursuant to a written plea agreement, the state prosecutor may recommend more lenient punishment under paragraph 1 sub-paragraph 1.1, paragraph 2 sub-paragraph 2.1 and paragraph 6 of this Article, but only to the extent allowed under the following formulation:
 - 7.1. for plea agreements consummated during the main trial, a defendant may be sentenced to a minimum of ninety percent (90%) of the minimum possible imprisonment set by the appropriate provisions of the Criminal Code.
 - 7.2. for plea agreements consummated prior to the main trial, a defendant may be sentenced to a minimum of eighty percent (80%) of the minimum possible imprisonment set by the appropriate provisions of the Criminal Code.
 - 7.3. for plea agreements consummated prior to the main trial where the defendant participates as a cooperative witness and provides evidence in a criminal proceeding, a defendant may be sentenced to a minimum of sixty percent (60%) of the minimum possible imprisonment set by the appropriate provisions of the Criminal Code.
 - 7.4. for plea agreements consummated prior to the main trial where the defendant participates as a cooperative witness in a covert investigation and provides evidence in a criminal proceeding, a defendant may be sentenced to a minimum of forty percent (40%) of the minimum possible imprisonment set by the appropriate provisions of the Criminal Code.
 8. The defendant and the defense counsel shall be present during the plea negotiations and must agree to the terms of any written plea agreement before it may be presented to the court. When the defendant is not participating as a cooperative witness, the following conditions apply. The state prosecutor shall inform the injured party of the negotiated plea agreement, once the agreement reaches its final

form. When the injured party has a claim for damages arising from the criminal conduct that has been filed or is charged in the indictment, the plea agreement must address the injured party's claim, and the state prosecutor must inform the injured party that the defendant is seeking to negotiate a plea agreement. The injured party must be given an opportunity to present a statement to the court regarding such property claim prior to the court's acceptance of the plea agreement.

9. Where the defendant shall participate as a cooperative witness, the state prosecutor shall ensure that the injured party's claim for damages is treated by the plea agreement. When the injured party has a claim for damages arising from the criminal conduct that has been filed or is charged in the indictment, the plea agreement must treat the injured party's claim. The injured party must be given an opportunity to present a statement to the court regarding such property claim prior to the court's sentencing of the defendant pursuant to the plea agreement.
10. The court shall not participate in the plea negotiations, but may set a reasonable deadline not longer than three (3) months for the conclusion of the negotiations to prevent delay of the procedure.
11. At any time prior to acceptance of the plea agreement by the court, either the state prosecutor or the defendant may reject a plea agreement and the single trial judge or presiding trial judge shall schedule the court trial as provided for under Chapter XIX of this Code. If the state prosecutor and the defense counsel or defendant fails to reach a guilty plea agreement, or if the plea agreement is not accepted by the court, any statements of the defendant made during the plea negotiations, as provided in paragraph 3, 4 and 5 of this Article, shall be inadmissible as evidence in the court trial or other related proceedings.
12. A written plea agreement must state every term of the agreement, must be signed by the chief prosecutor of the respective office, the defense counsel and the defendant, and shall be binding on each party. At a minimum, the plea agreement must specify:
 - 12.1. the charges to which the defendant will plead guilty;
 - 12.2. whether the defendant agrees to cooperate;
 - 12.3. the rights that are waived;
 - 12.4. defendant's liability for restitution to an injured party and confiscation of all assets subject to forfeiture under Chapter XVIII of the present Code.
13. The plea agreement may also include a provision in which the parties agree on a range of punishment to be proposed by the state prosecutor if the defendant cooperates substantially, whereas if the court imposes a sentence outside of this range to the detriment of one party, that party shall be entitled to appeal for the decision on the sentence.
14. The written plea agreement must be presented to the court in a hearing open to the public, except as provided in paragraph 16 of this Article.
15. If the written plea agreement is negotiated prior to indictment, a separate indictment for the defendant subject to the plea agreement shall be filed concurrent with the plea agreement. They may both be presented in a sealed and stamped envelope. The initial hearing with the single trial judge or presiding trial judge may also serve as a hearing under this Article.

16. The court may officially accept or reject the plea agreement in accordance with the factors to be considered in paragraph 18 of this Article. The guilty plea agreement shall enter into effect only after it is officially accepted by the court on the record.
17. If the defendant agrees to be a co-operative witness and when the foreseen measures in Chapter XIII of the present Code are ensured to him/her, upon the request of either party, the court may order the hearing to consider the guilty plea agreement to be closed to the public and may order the written plea agreement to be sealed.
18. In considering whether to accept the guilty plea agreement, the court must question the defendant, his or her defense counsel and the state prosecutor, and shall determine whether:
 - 18.1. the defendant understands the nature and the consequences of the guilty plea;
 - 18.2. the guilty plea is voluntarily made by the defendant after sufficient consultation with defense counsel, if defendant has a defense counsel, and the defendant has not been forced to plead guilty or coerced in any way;
 - 18.3. the guilty plea is supported by the facts and material proofs of the case that are contained in the indictment, by the materials presented by the prosecutor to supplement the indictment and accepted by the defendant, and any other evidence, such as the testimony of witnesses, presented by the prosecutor or defendant; and
 - 18.4. none of the circumstances under Article 253, paragraphs 1 and 2 of this Code exists.
19. In considering the guilty plea agreement, the court must invite the views of the state prosecutor, the defense counsel and the injured party. If the defendant's agreement to cooperate and plead guilty is under seal pursuant to paragraph 17 of this Article, the court shall permit the injured party to make a statement at the end of defendant's cooperation, prior to sentencing.
20. If the court is not satisfied that all of the conditions set forth in paragraph 18 of the present Article are fulfilled, the court shall reject the guilty plea and the case shall proceed to trial as provided for by this Code.
21. If the court is satisfied that all of the conditions in paragraph 18 of the present Article are established, the court shall accept the guilty plea agreement and order that the agreement be filed with the court. The court shall set a date for the parties to make their statements regarding sentencing after which the Court shall impose the punishment. This date, however, may be deferred for the defendant to serve as a co-operative witness.
22. After the court accepts the guilty plea and the written plea agreement, but before the punishment is imposed, the court may not permit defendant to withdraw the guilty plea or the state prosecutor to rescind the plea agreement unless the court finds that any of the conditions in paragraph 18 of this Article are no longer satisfied. The party seeking to withdraw from the agreement bears the burden of proof in making such application to the court.

Article 234
Waiver of Punishment

1. Upon an application by the state prosecutor, the court may waive the punishment of a perpetrator who is not a co-operative witness or reduce such punishment in accordance with Article 75 of the Criminal Code when the perpetrator voluntarily cooperated and his or her cooperation prevented any further criminal offences by others, or led to a successful prosecution of other perpetrators of a criminal offence.
2. If the perpetrator is found guilty of a criminal offence for which a punishment of at least ten (10) years of imprisonment can be imposed, the court shall not suspend or waive the punishment.

Article 235
Cooperative Witnesses

1. For the purposes of the present Chapter, the term “co-operative witness” means a suspect or a defendant with respect to whom the indictment has not yet been read at the main trial and who is expected to give evidence in court which is:
 - 1.1. likely to prevent further criminal offences by another person;
 - 1.2. likely to lead to the finding of truth in criminal proceedings;
 - 1.3. voluntarily made with full agreement to testify truthfully in court;
 - 1.4. determined by the court to be truthful and complete; or
 - 1.5. such that it might lead to a successful prosecution of other perpetrators of a criminal offence.

Article 236
Application to Declare Cooperative Witness

1. The state prosecutor may make a written application to a court for an order declaring a person to be a co-operative witness. The application shall contain a separate declaration of factual allegations by the state prosecutor.
2. The state prosecutor may make a reasoned request for an order to keep the factual allegations in the declaration secret from other parties and their legal counsel.
3. The court may, at any time after receiving a request for secrecy from the state prosecutor, make an order for secrecy with respect to factual allegations contained in a declaration.
4. Any violation of an order for secrecy established under paragraph 2 of the present Article shall be prosecuted by the state prosecutor under Article 202 of the Criminal Code and Article 202, paragraph 2, of the Criminal Code shall not apply.

Article 237
Procedure to Declare Cooperative Witness

1. Upon receiving the application, the pre-trial judge, single trial judge or the presiding judge shall hear the application in a session which is closed to the public.

The state prosecutor and the legal counsel of the cooperative witness may participate in a hearing to evaluate the credibility of the cooperative witness and to ensure that the requirements of Article 235 of the present Code are met. Statements made to the judge during this examination cannot be used in criminal proceedings against the cooperative witness or against any other person as evidence to support a finding of guilt.

2. The provisions applicable to the examination of witnesses shall be applied *mutatis mutandis* to the examination of the cooperative witness, and the examination shall be recorded pursuant to the provisions of the present Code.
3. At the conclusion of the hearing the pre-trial judge, single trial judge or the presiding trial judge may issue an order declaring a person to be a co-operative witness if he or she determines that the criteria for a cooperative witness, as provided for in Article 235 of the present Code, are met.
4. The order shall specify:
 - 4.1. the criminal offences, by describing the acts and their qualifications, for which the prohibition of the initiation or continuation of criminal proceedings or the imposition of punishment is ordered;
 - 4.2. a prohibition on the initiation or continuation of criminal proceedings against the co-operative witness and on the imposition of a punishment on the co-operative witness for the criminal offences specified in the order;
 - 4.3. the nature and substance of cooperation given by the co-operative witness;
 - 4.4. the conditions for the revocation of the order.
5. The pretrial judge, single trial judge or presiding judge shall not issue such order if the co-operative witness is suspected by the state prosecutor or charged by indictment of being the organizer or the leader of a group of two (2) or more persons which commits a criminal offence.
6. The order shall not prohibit the initiation or continuation of criminal proceedings against a co-operative witness for criminal offences committed after the order was issued or for criminal offences punishable by imprisonment of at least ten (10) years.

Article 238 **Revocation of Declaration of Cooperative Witness**

1. Upon an application by the state prosecutor, the order provided for in Article 237 of the present Code may be revoked by a review panel if it is established that the testimony of the co-operative witness was false in any relevant part or that the co-operative witness omitted to state the complete truth.
2. The co-operative witness shall be warned of the consequences of giving testimony that is false in any relevant part or purposely omitting to state the complete truth before being heard by the pre-trial judge under Article 237 paragraph 1 of the present Code, and before giving testimony under the protection of the order. Any such testimony must be either in written form in the language of the co-operative witness, signed by him or her to acknowledge its truthfulness, or recorded on audio- or video-tape which is determined to be authentic by the court.

Article 239
Defendant Shall Receive Notice Identifying Cooperative Witness

The defendant against whom the cooperative witness is expected to testify shall be served with a copy of the order declaring the person to be a cooperative witness prior to the main trial of the defendant.

CHAPTER XV
INDICTMENT AND PLEA STAGE

Article 240
Criminal Trial Only Conducted after Filing of Indictment

1. After the investigation has been completed and when the state prosecutor considers that the information that he has in relation to the criminal offence and the offender provide a well-grounded suspicion that the defendant has committed a criminal offence or criminal offences, proceedings before the court may be conducted only on the basis of an indictment filed by the state prosecutor.
2. If the investigation is completed and there is insufficient evidence to support a well-grounded suspicion that the defendant has committed a criminal offence or criminal offences, the state prosecutor shall file a ruling that terminates the investigation.

Article 241
The Indictment

1. The indictment shall contain:
 - 1.1. an indication of the court before which the main trial is to be held; and
 - 1.2. the first name and surname of the defendant and his or her personal data;
 - 1.3. an indication as to whether and for how long detention on remand or other measures to ensure the presence of defendant were ordered against the defendant, whether he or she is at liberty and, if he or she was released prior to the filing of the indictment, how long he or she was held in detention on remand;
 - 1.4. the legal name of the criminal offence with a citation of the provisions of the Criminal Code;
 - 1.5. the time and place of commission of the criminal offence, the object upon which and the instrument by which the criminal offence was committed, and other circumstances necessary to determine the criminal offence with precision;
 - 1.6. a recommendation as to evidence that should be presented at the main trial along with the names of witnesses and expert witnesses, documents to be read and objects to be produced as evidence.
 - 1.7. an explanation of the grounds for filing the indictment on the basis of the results of the investigation and the evidence which establishes the key facts;
 - 1.8. if a special investigative opportunity has been conducted, the indictment

shall name the judges on the panel who heard the special investigative opportunity.

- 1.9. the indictment shall identify with specificity any building, immovable property, movable property, funds or other asset subject to forfeiture. The indictment must also describe the appropriate proof required to justify the forfeiture under Chapter XVIII of the present Code.
2. If the defendant is at liberty, the state prosecutor may make a motion in the indictment that detention on remand be ordered; if the defendant is in detention on remand, the state prosecutor may make a motion that he or she be released.
3. A single indictment may be filed for several criminal offences or against several defendants only when, in accordance with Article 35 of the present Code, joint proceedings may be conducted.

Article 242

Procedure for Filing the Indictment

1. The indictment shall be filed in the competent court in as many copies as there are defendants and their defense counsel, plus one (1) copy for the court. A complete file on the investigation shall also be submitted to the court by the state prosecutor.
2. The Court shall assign a single trial judge or presiding trial judge and panel based on an objective and transparent case allocation system, as appropriate. If a special investigative opportunity has been conducted, one of the panel judges shall be assigned to be the single trial judge or either the presiding trial judge or a judge on the trial panel.
3. The single trial judge or presiding trial judge may *ex officio* determine whether it has jurisdiction over the matter within the indictment.
4. The single trial judge or presiding trial judge shall immediately schedule an initial hearing to be held within thirty (30) days of the indictment being filed.
5. If the defendant is being held in detention on remand, the initial hearing shall be held at the first opportunity, not to exceed fifteen (15) days from the indictment being filed.
6. The single trial judge or presiding trial judge shall notify the state prosecutor, defendants and defence attorneys of the time and place of the initial hearing.

Article 243

Filings Supplemental to the Indictment

1. Concurrent with filing the indictment, the state prosecutor shall file the following documents if appropriate:
 - 1.1. the state prosecutor shall file a notice of corroboration under Article 263 of the present Code with any statement taken under Article 132 of the present Code or evidence obtained under Article 219, paragraph 6 of the present Code that he or she intends to submit as direct evidence without the presence of the witness. The notice of corroboration shall describe the independent evidence that corroborates the statement that the state prosecutor intends to submit as direct evidence. This notice of corroboration

may be supplemented or filed at a later date if a witness for whom this provision applies is not longer available to testify at the main trial.

- 1.2. the state prosecutor shall file a request to continue or implement any measure to ensure the presence of the defendant. Articles 173 to 193 of the present Code shall apply *mutatis mutandis* to any request under this paragraph.
2. The state prosecutor may file notices of corroboration or requests under this Article at other times if he or she could not know the basis for filing the notice or request at the time the indictment was filed.

Article 244

Materials Provided to Defendant upon Indictment

1. No later than at the filing of the indictment the state prosecutor shall provide the defense counsel or lead counsel with one (1) copy of the following materials or copies thereof which are in his or her possession, control or custody, including those in the possession, control or custody of the police, if these materials have not already been given to the defense counsel during the investigation:
 - 1.1. records of statements or confessions, signed or unsigned, by the defendant;
 - 1.2. names of witnesses whom the state prosecutor intends to call to testify and any prior statements made by those witnesses;
 - 1.3. information identifying any persons whom the state prosecutor knows to have admissible and exculpatory evidence or information about the case and any records of statements, signed or unsigned, by such persons about the case;
 - 1.4. results of physical or mental examinations, scientific tests or experiments made in connection with the case;
 - 1.5. criminal reports and police reports; and
 - 1.6. a summary of, or reference to, tangible evidence obtained in the investigation.
2. The statements of the witnesses shall be made available in a language which the defendant understands and speaks.
3. After the filing of the indictment, the state prosecutor shall provide the defense counsel with any new materials provided for in paragraph 1 of the present Article within ten (10) days of their receipt.
4. The provisions of the present Article are subject to the measures protecting injured parties, witnesses and their privacy and confidential information, as provided for by law.

Article 245

The Initial Hearing

1. At the initial hearing, the state prosecutor, defendant or defendants, and defence counsel shall be present.
2. During the initial hearing, the single trial judge or presiding trial judge shall provide copies of the indictment to the defendant or defendants, if they have not already received copies of the indictments.

3. During the initial hearing, the single trial judge or presiding trial judge shall rule on any motion to extend or implement measures to ensure the presence of the defendant.
4. During the initial hearing, the single trial judge or presiding trial judge shall ensure that the state prosecutor has fulfilled the obligation relating to the disclosure of evidence under Article 244 of the present Code.
5. During the initial hearing, the single trial judge or presiding trial judge shall schedule a second hearing no less than thirty (30) days after the initial hearing, and no more than forty (40) days after the initial hearing. In the alternative, the single trial judge or presiding trial judge may only require the filing of motions by a date set no more than thirty (30) days after the initial hearing.
6. The single trial judge or presiding trial judge shall inform the defendant and defence counsel that prior to the second hearing, they must:
 - 6.1. file any objections to evidence listed in the indictment,
 - 6.2. file any requests to dismiss the indictment as legally prohibited, and
 - 6.3. file any requests to dismiss the indictment for failing to describe a criminal offence under the law.
7. No witnesses or expert witnesses shall be examined or other evidence presented during the initial hearing, unless the witness is required for the decision to extend or implement measures to ensure the presence of the defendant under paragraph 3 of this Article.

Article 246 Plea

1. At the beginning of the initial hearing the single trial judge or presiding trial judge shall instruct the defendant of the rights not to plead his or her case or to answer any questions and, if he or she pleads his or her case, not to incriminate himself or herself or his or her close relative, nor to confess guilt; to defend himself or herself in person or through legal assistance by a defence counsel of his or her own choice; to object to the indictment; and to challenge the admissibility of evidence presented in the indictment.
2. The single trial judge or presiding trial judge shall then satisfy himself or herself that the right of the defendant to defence counsel has been respected and that the state prosecutor has fulfilled the obligation relating to the disclosure of evidence under Article 244 of the present Code.
3. The state prosecutor shall then read the indictment to the defendant.
4. The single trial judge or presiding trial judge shall satisfy himself or herself that the defendant understands the indictment and afford the defendant the opportunity to plead guilty or not guilty. If the defendant has not understood the indictment, the single trial judge or presiding trial judge shall call on the state prosecutor to explain it in a way the defendant may understand without difficulty. If the defendant does not want to make any statement regarding his or her guilt, he or she shall be considered to have pleaded not guilty.

Article 247
Plea Agreements during the Initial Hearing

1. If a plea agreement under Article 233 of the present Code has been filed with the indictment, the single trial judge or presiding trial judge shall evaluate the plea agreement and accept it, reject it, or schedule a separate hearing in accordance with the procedures in Article 248 and Article 233 of the present Code.
2. If the defendant pleads not guilty, the court may not sentence the defendant unless the defendant changes his or her plea to guilty or the court convicts the defendant after the main trial, regardless of the plea agreement.
3. Hearings under this chapter may be held with measures of secrecy upon the request of the state prosecutor under Chapter XIII of the present Code.
4. A plea agreement under Article 233 of the present Code or a guilty plea under Article 248 of the present Code may be considered by the court at any time prior to the closing of the main trial.

Article 248
Guilty Pleas during the Initial Hearing

1. Where the defendant pleads guilty on each count of the indictment under Articles 246 or 247 of the present Code, the single trial judge or presiding trial judge shall determine whether:
 - 1.1. the defendant understands the nature and consequences of the guilty plea;
 - 1.2. the guilty plea is voluntarily made by the defendant after sufficient consultation with defence counsel, if the defendant has a defence counsel;
 - 1.3. the guilty plea is supported by the facts of the case that are contained in the indictment, materials presented by the state prosecutor to supplement the indictment and accepted by the defendant; and any other evidence, such as the testimony of witnesses, presented by the state prosecutor or the defendant; and
 - 1.4. the indictment does not contain any obvious legal errors or factual misstatements.
2. In considering the guilty plea of the defendant, the single trial judge or presiding trial judge may invite the views of the state prosecutor, the defence counsel and the injured party.
3. If the single trial judge or presiding trial judge is not satisfied that the matters provided for in paragraph 1 of the present Article are established, he or she shall render a ruling to reject the guilty plea and proceed with the initial hearing as if the guilty plea has not been made.
4. If the single trial judge or presiding trial judge is satisfied that the matters provided for in paragraph 1 of the present Article are established, he or she shall render a ruling to accept the guilty plea made by the defendant and shall proceed with sentencing, schedule a hearing to determine a matter relevant for sentencing, or shall suspend sentencing pending the completion of the cooperation by the defendant with the state prosecutor.
5. The defendant who does not plead guilty during the initial hearing may choose to

change their plea to guilty at any time. For any defendant wishing to plead guilty under this paragraph, the single trial judge or presiding trial judge shall conduct, *mutatis mutandis*, a hearing under this Article.

Article 249

Objections to Evidence

1. Prior to the second hearing, the defendant may file objections to the evidence listed in the indictment, based upon the following grounds:
 - 1.1. the evidence was not lawfully obtained by the police, state prosecutor, or other government entity;
 - 1.2. the evidence violates the rules in Chapter XVI of the present Code;
 - 1.3. there is an articulable ground for the court to find the evidence intrinsically unreliable.
2. The state prosecutor shall be given an opportunity to respond to the objection verbally or in writing.
3. For all evidence where an objection has been filed, the single trial judge or presiding trial judge shall issue a written decision with reasoning that permits or excludes the evidence.
4. Inadmissible evidence shall be excluded from the file and sealed. Such evidence shall be kept by the court, separated from other records and evidence. The excluded evidence may not be examined or used in the criminal proceedings, except in an appeal against the ruling on admissibility.
5. All evidence where no objection has been filed shall be admissible at the main trial, unless the court *ex officio* determines that the admission of the evidence would violate rights guaranteed to the defendant under the Constitution of the Republic of Kosovo.
6. Either party may appeal a decision under paragraph 3 of the present Article. The appeal must be made within five (5) days of the receipt of the written decision.

Article 250

Request to Dismiss Indictment

1. Prior to the second hearing, the defendant may file a request to dismiss the indictment, based upon the following grounds:
 - 1.1. the act charged is not a criminal offence;
 - 1.2. circumstances exist which exclude criminal liability;
 - 1.3. the period of statutory limitation has expired, a pardon covers the act, or other circumstances exist which bar prosecution; or
 - 1.4. there is not sufficient evidence to support a well-grounded suspicion that the defendant has committed the criminal offence in the indictment.
2. The state prosecutor shall be given an opportunity to respond to the request verbally or in writing.
3. The single trial judge or presiding trial judge shall issue a written decision with reasoning that either denies the request or dismisses the indictment.
4. Either party may appeal a decision under paragraph 3 of this Article. The appeal must be made within five (5) days of the receipt of the written decision.

Article 251
Responses

1. The state prosecutor shall have the opportunity to respond to an objection under Article 249 or a request under Article 250 of the present Code.
2. The response under paragraph 1 of the present Article may be verbal during the second hearing or in writing.
3. The single trial judge or presiding trial judge shall provide the state prosecutor with one (1) week to file a written response to an objection under Article 249 or a request under Article 250 of the present Code.
4. In lieu of a response to a request under Article 250 of the present Code, the state prosecutor may file an amended indictment under Article 252 of the present Code.

Article 252
Amended Indictment

1. If a request to dismiss the indictment filed by the defendant under Article 250 of the present Code can be remedied by amending the indictment, the state prosecutor shall file an amended indictment in accordance with Article 241 of the present Code within one (1) week of the second hearing.
2. If an amended indictment is filed against one defendant or multiple defendants, the single trial judge or presiding trial judge shall schedule an initial hearing under Article 245 of the present Code as though the indictment was new.
3. The defendants may file any new objections under Article 249 or requests under Article 250 of the present Code, but only as to those parts of the indictment that have been amended,
4. The defendant may renew his or her previous objections under Article 249 of the present Code or requests under Article 250 of the present Code. If he or she does not renew his or her previous objections or requests, the single trial judge or presiding trial judge shall conclude that those objections or requests are not relevant to the amended indictment and shall not consider them further.
5. The state prosecutor may only amend the indictment once, unless he or she has obtained new information that requires the indictment to be amended.

Article 253
Dismissal of Indictment

1. For every request to dismiss the indictment under Article 250 of the present Code, the single trial judge or presiding trial judge shall render a ruling to dismiss the indictment and to terminate the criminal proceedings if he or she determines that:
 - 1.1. the act charged is not a criminal offence;
 - 1.2. circumstances exist which exclude criminal liability;
 - 1.3. the period of statutory limitation has expired, an amnesty or pardon covers the act, or other circumstances exist which bar prosecution; or
 - 1.4. there is not sufficient evidence to support a well-grounded suspicion that the defendant has committed the criminal offence in the indictment.

2. In rendering a ruling under the present Article, the single trial judge or presiding trial judge shall not be bound by the legal designation of the criminal offence as set forth by the state prosecutor in the indictment.
3. In response to a request under Article 250 of the present Code, the state prosecutor may dismiss the indictment if the request under Article 250 of the present Code has merit.

Article 254

Second Hearing and Scheduling of the Main Trial

1. At the second hearing, the state prosecutor, defendant or defendants, and defence counsel shall be present, unless the single trial judge or presiding trial judge only require the filing of motions by the date of the second hearing.
2. During the second hearing, the single trial judge or presiding trial judge shall ensure that the defence counsel has fulfilled the obligation relating to the disclosure of evidence under Article 256 of the present Code.
3. During the second hearing, the single trial judge or presiding trial judge shall consider any objection under Article 249 or request under Article 250 of the present Code. He or she may request the state prosecutor to respond verbally during the hearing or in writing, in accordance with Articles 249-253 of the present Code.
4. During the second hearing, the single trial judge or presiding trial judge shall schedule any hearings in accordance with Article 255 of the present Code, if such hearings are needed.
5. During the second hearing the single trial judge or presiding trial judge shall schedule the main trial, unless he or she still must rule on a pending objection under Article 249 or request under Article 250 of the present Code.
6. If the single trial judge or presiding trial judge still must rule on a pending objection under Article 249 or request under Article 250 of the present Code, he or she shall issue a written decision with reasoning on the pending motions after the second hearing. He or she shall also schedule the main trial by a written order issued concurrently with the above written decision or decisions.
7. No witnesses or expert witnesses shall be examined or other evidence presented during the second hearing.

Article 255

Hearings to Determine Validity of Motions

1. If the single trial judge or presiding trial judge determines that a hearing is necessary to evaluate the defendant's objection under Article 249 or a request under Article 250 of the present Code, he or she shall schedule and conduct a hearing as soon as possible, but within three (3) weeks after the date of the second hearing.
2. The single trial judge or presiding trial judge shall issue a written decision with reasoning as soon as possible after the hearing held under this Article, but within three (3) weeks of the date of the hearing held under this Article.

Article 256
Materials Provided by the Defense

1. The defense shall provide to the state prosecutor at the second hearing:
 - 1.1. notice of the intent to present an alibi, specifying the place or places at which the defendant claims to have been present at the time of the alleged criminal offence and the names of witnesses and any other evidence supporting the alibi;
 - 1.2. notice of the intent to present a ground for excluding criminal liability, specifying the names of witnesses and any other evidence supporting such ground; and
 - 1.3. notice of the names of witnesses whom the defense intends to call to testify.
2. The defense counsel may supplement the information provided in paragraph 1 of this Article to the state prosecutor in writing at any time prior to trial.
3. If the defense counsel has not performed the duty under paragraphs 1 and 2 of this Article and the court finds no justifiable reasons for such omission, the court may impose a fine of up to two hundred and fifty (250) EUR upon the defense counsel and inform the bar association of this.

CHAPTER XVI
EVIDENCE

Article 257
General Rules of Evidence

1. The rules of evidence set forth in the present Article shall apply in all criminal proceedings before the court and, in cases provided for by the present Code, to proceedings before a state prosecutor and the police.
2. Evidence obtained in violation of the provisions of criminal procedure shall be inadmissible when the present Code or other provisions of the law expressly so prescribe.
3. The court cannot base a decision on inadmissible evidence.
4. In any questioning or examination it is prohibited to:
 - 4.1. impair the defendant's freedom to form his or her own opinion and to express what he or she wants by ill-treatment, induced fatigue, physical interference, administration of drugs, torture, coercion or hypnosis;
 - 4.2. threaten the defendant with measures not permitted under the law;
 - 4.3. hold out the prospect of an advantage not envisaged by law; and
 - 4.4. impair the defendant's memory or his or her ability to understand.
5. The prohibition under paragraph 4 of the present Article shall apply irrespective of the consent of the subject of the questioning or examination.
6. If questioning or examination has been conducted in violation of paragraph 4 of the present Article, no record of such questioning or examination shall be admissible.

Article 258
Evidence and Order within the Court

1. The single trial judge or presiding trial judge shall be responsible for the orderly functioning of the main trial, including the taking of evidence.
2. The court may prevent evidence from being taken if:
 - 2.1. if the taking of such evidence to supplement other evidence is unnecessary or is superfluous because the matter is common knowledge;
 - 2.2. if the fact to be proven is irrelevant to the decision or has already been proven;
 - 2.3. if the evidence is wholly inappropriate, impossible or unobtainable; or
 - 2.4. if the application is made to prolong the proceedings.
3. The court may prevent evidence or exclude evidence

Article 259
Manifestly Irrelevant or Inherently Unreliable Evidence Inadmissible

1. Any evidence that is unrelated to the proving an element of the criminal offence, the damage caused by the criminal offence, a defense to the prosecution, or other relevant issue may be ruled to be manifestly irrelevant and is inadmissible.
2. Any evidence that is inherently unreliable as defined in Article 19, paragraph 1, subparagraph 1.29 of the present Code shall be inadmissible.

Article 260
Consideration of Admissible Evidence at Main Trial

1. Once the single trial judge or presiding trial judge excludes evidence in accordance with Article 249 of the present Code, that evidence may only be considered by the court upon retrial if the decision by the single trial judge or presiding trial judge to exclude is reversed on appeal.
2. Evidence may be considered by the single trial judge or the trial panel during the main trial if it is not excluded under Article 249 or is not inadmissible under Article 259 of the present Code.
3. The single judge, presiding judge or a member of the trial panel, shall assess the credibility, relevance and probative value of evidence that is admitted under paragraph 2 of the present Article.

Article 261
Prior Statements Used at Main Trial

1. A statement by the defendant given to the police or the state prosecutor may be admissible evidence in court only when taken in accordance with the provisions of Article 73, paragraph 1, Article 131, or Article 132 and in accordance with Articles 151 through 155 of the present Code. Such statements can be used to challenge the testimony of the defendant in court or as direct evidence in accordance with Article 262 paragraph 2 of the present Code.

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2. Pretrial interviews may be used as evidence in accordance with Article 123 paragraph 2 of the present Code.
3. Pretrial testimony may be used as evidence in accordance with Article 123 paragraph 3 of the present Code.
4. A special investigative opportunity may be used as evidence in accordance with Article 123 paragraph 4 of the present Code.

Article 262 Evidence as a Basis of Guilt

1. The court shall not find the accused guilty based solely, or to a decisive extent, on testimony or other evidence which could not be challenged by the defendant or defence counsel through questioning during some stage of the criminal proceedings.
2. 2 The court shall not find the accused guilty based solely, or to a decisive extent, upon statements given by the defendant to the police or the state prosecutor.
3. The court shall not find the accused guilty based solely, or to a decisive extent, on testimony given by a single witness whose identity is anonymous to the defence counsel and the accused.
4. The court shall not find any person guilty based solely on the evidence of testimony given by the cooperative witness.

Article 263 Notice of Corroboration

1. A state prosecutor who intends to rely on prior statements under Article 261 or evidence obtained under Article 219, paragraph 6 of the present Code, shall file a notice of corroboration.
2. A notice of corroboration shall contain:
 - 2.1. a description of the testimony, statements or other evidence upon which the state prosecutor intends to rely that would be limited under Article 262 of the present Code.
 - 2.2. a brief description of any other testimony, documents or evidence that corroborates the incriminating information in the evidence listed under subparagraph 2.1 of this paragraph.
3. The notice of corroboration should be filed with the indictment, but no later than the start of the main trial.

CHAPTER XVII FREEZING ASSETS AND ATTACHMENT ORDERS

Article 264 Temporary Freezing of Assets

1. If an investigative stage is authorized for a criminal offence listed in Article 90 of the present Code, the state prosecutor may issue an order to prevent the sale,

transfer of ownership, or withdrawal from an account any item that is described in paragraph 2 or 3 of this Article.

2. Any building, immobile property, mobile property or asset that the state prosecutor has articulable evidence which demonstrates grounded suspicion that:
 - 2.1. the building, immobile property, mobile property or asset was used in the criminal offence being investigated,
 - 2.2. the building, immobile property, mobile property or asset is evidence of the criminal offence being investigated, or
 - 2.3. the building, immobile property, mobile property or asset is a proceed of the criminal offence being investigated.
3. Any financial account belonging to the defendant of the investigation that may contain funds which are:
 - 3.1. proceeds of the criminal offence being investigated, or
 - 3.2. used in the continuing commission of the criminal offence being investigated.
4. An order by the state prosecutor under this Article shall have the following effect:
 - 4.1. any bank or financial institution which receives the order under this Article shall immediately prevent any further activity from occurring with the bank account described in the order. The bank shall not be responsible to the owner of the bank account for compliance with the order under this paragraph.
 - 4.2. Any other party which receives the order under this Article shall take any reasonable step to comply with the order.
5. An order from the state prosecutor under this Article may only be issued once and shall be effective for only seventy-two (72) hours from the issuance of the order.
6. The order of the state prosecutor shall describe the building, immovable property, movable property, financial account or asset and shall command the recipient to prevent the sale, transfer of ownership or withdrawal from the account for seventy-two (72) hours from the issuance of the order. The order shall state the time of issuance and the time of expiration of the order.
7. An order under this paragraph may only be issued by the state prosecutor if he or she also submits a request to the pretrial judge for an attachment order under Article 265 of the present Code for the asset described in the order.

Article 265 Attachment Order

1. The state prosecutor who issues an order to temporarily freeze assets under Article 264 of the present Code shall immediately submit to the pretrial judge a request for an attachment order for the asset described in the order to temporarily freeze assets.
2. The request for an attachment order shall contain the following:
 - 2.1. a copy of the order to temporarily freeze assets,
 - 2.2. a description of the articulable evidence that justifies the order,
 - 2.3. a description of the necessity of the attachment order to prevent the sale, transfer or withdrawal from the account of the asset described, and

- 2.4. the identity of all persons with a financial or property interest in the asset described, as listed in cadastral records or other government records.
3. The pretrial judge shall issue an attachment order for each asset requested if the state prosecutor demonstrates with articulable evidence grounded cause to justify the order.
4. The pretrial judge shall deny or issue the attachment order prior to the expiration of the order to temporarily freeze assets.
5. An attachment order issued by any pretrial judge in Kosovo shall have jurisdiction throughout Kosovo.
6. The attachment order shall describe the building, immovable property, movable property, financial account or asset and shall command the recipient to prevent the sale, transfer of ownership or withdrawal from the account for thirty (30) days from the issuance of the order. The order shall state the time of issuance and the time of expiration of the order.
7. The attachment order shall be served on the financial institution or other party on whom the order to temporarily freeze assets was served.
8. The attachment order shall also be served on the defendant and all other persons with an interest in the asset described. The attachment order shall schedule a hearing within three (3) weeks and shall state the following: "The property listed in the attachment order has been frozen for thirty (30) days. A hearing has been scheduled. If you intend to challenge the freezing of this property, you should attend the hearing and you will have the opportunity to argue for the release of the property. The long-term attachment of the property may be ordered at this hearing and this will affect your interest in the property."
9. An attachment order under this Article shall have the following effect:
 - 9.1. any bank or financial institution which receives the order under this paragraph shall immediately prevent any further activity from occurring with the bank account described in the order. The bank shall not be responsible to the owner of the bank account for compliance with the order under this paragraph.
 - 9.2. any other party which receives the order under this paragraph shall take any reasonable step to comply with the order.

Article 266

Hearing to Confirm Attachment of Property

1. The pretrial judge may consider evidence or witnesses in support of the previous issuance of the attachment order when deciding whether to issue a long-term attachment order at the conclusion of the attachment hearing. He or she shall also base the long-term attachment order on the evidence presented during the attachment hearing under paragraphs 2, 3 and 4 of this Article.
2. The state prosecutor shall present evidence or witnesses in support of the attachment order.
3. The defendant may present evidence or witnesses to counter the evidence in support of the attachment order, or may argue against the legal basis for the attachment order.

4. Other parties with an interest in the property shall present evidence or witnesses to counter the evidence in support of the attachment order, or may argue against the legal basis for the attachment order.
5. The pretrial judge shall only issue a long term attachment order for each asset requested if there exists articulable evidence that demonstrates a grounded cause to justify the order.
6. At the conclusion of the hearing, the pretrial judge shall issue an order that:
 - 6.1. denies the attachment of the property and issues an order immediately releasing the property, or
 - 6.2. confirms the attachment of the property and immediately issues a long-term attachment order.
7. The court may order the seizure of property for it to be managed by the Agency for the Management of Sequestered and Confiscated Assets at the end of the hearing only if the court is convinced that an attachment order will be unable to prevent the property from leaving its jurisdiction.
8. Except for funds held in a frozen or attached financial account, the defendant or user of the property shall maintain the use of the property but may not sell or otherwise transfer the ownership of the property.
9. A long term attachment order issued by any pretrial judge in Kosovo shall have jurisdiction throughout Kosovo.
10. A long term attachment order issued by a pretrial judge shall not expire until the end of the main trial, the termination of the investigation or by operation of paragraph 11 of this Article.
11. If property listed in a long term attachment order is not listed in the indictment under Article 241 of the present Code, the single trial judge or presiding trial judge may decide on a release to all parties listed in the long-term attachment order.
12. An order for long-term attachment can be appealed to the court of appeals within ten (10) days of the order. The appeal will not stay execution of the order for long-term attachment.

CHAPTER XVIII CONFISCATION AND FORFEITURE

1. PROCEDURES BEFORE INDICTMENT

Article 267 Temporary Confiscation

1. Buildings, immovable property, movable property and assets that are temporarily confiscated under Article 112 of the present Code shall either be:
 - 1.1. returned to the owner under Article 116 of the present Code,
 - 1.2. maintained pending use as evidence and/or permanent confiscation under Article 268 of the present Code.
2. Contraband that has been temporarily sequestered under Article 105 of the present Code shall not be returned to the owner and shall be destroyed after it is no longer to be used as evidence.

3. Assets that have been seized which are otherwise subject to confiscation and forfeiture under the law shall be considered to have been temporarily confiscated or sequestered under this Chapter.
4. Within sixty (60) days of the temporary confiscation of a building, immovable property, movable property or asset, the state prosecutor shall request a temporary measure for securing property under Article 268 of the present Code.

Article 268

Request for Temporary Measures for Securing Property

1. For buildings, immovable property, movable property and assets that are temporarily confiscated and which shall be used as evidence or which may be subject to permanent confiscation, the state prosecutor shall submit a written request to the pretrial judge for temporary measures to secure the property.
2. The request for temporary measures shall describe:
 - 2.1. the building, immovable property, movable property or asset subject to the request,
 - 2.2. the grounded suspicion that the building, immovable property, movable property or asset was either:
 - 2.2.1. the proceed of the criminal offence being investigated; or
 - 2.2.2. used or intended to be used in the commission of the criminal offence;
 - 2.3. the substantial likelihood that the building, immovable property, movable property or asset will be unavailable for confiscation at the conclusion of the criminal proceedings or will be used in the commission of a criminal offence unless temporary measures are taken;
 - 2.4. all persons with a legal interest in the building, immovable property, movable property or asset; and
 - 2.5. the proposed temporary measures to be taken under Article 269 of the present Code.
3. The state prosecutor shall serve a copy of the request for temporary measures upon every person listed in paragraph 2 sub-paragraph 2.4 of this Article. If a copy of the request for temporary measures cannot be served upon every person listed in paragraph 2 sub-paragraph 2.4, the state prosecutor shall make a reasonable effort to inform every person listed in sub-paragraph 2.4 of this Article of the existence and consequences of the request for temporary measures.

Article 269

Temporary Measures for Securing Property

1. The state prosecutor may request, and the Agency for Managing Sequestered or Confiscated Assets shall be responsible for executing, the following temporary measures for securing property:
 - 1.1. maintaining the property in a safe;
 - 1.2. maintaining the property in a secured warehouse;
 - 1.3. maintaining immovable property with a property manager;

- 1.4. maintaining funds in a bank account authorized by the court;
 - 1.5. disposition of the property under paragraph 2 or 3 of this Article;
 - 1.6. reasonable steps to maintain the property as evidence; or
 - 1.7. reasonable steps to maintain the property or its equivalent as an asset.
2. For property that will require exceptional costs to manage, maintain, feed or place in a storage, the state prosecutor may request a reasonable measure that will minimize the exceptional costs but maintain the value of the property. Efforts under this paragraph may include the sale of the property at a market rate, the slaughter or sale of livestock, or the processing of crops or materials into final products.
 3. For property that will quickly diminish in value or is absolutely fungible, the state prosecutor may request a reasonable measure that will prevent the loss of value or unnecessary costs of maintenance. Efforts under this paragraph may include the sale of the property at a market rate, the comingling of property, or the processing of crops or materials into final products.
 4. The sale of any property under this Article shall be conducted in a manner consistent with Article 8 of the Law on Managing Sequestered or Confiscated Assets, Law No. 03/L-141.
 5. Funds from the sale of any property under this Article shall be maintained in a manner consistent with Article 9 of the Law on Managing Sequestered or Confiscated Assets, Law No. 03/L-141.

Article 270 **Objections by Third Parties**

1. All persons with a legal interest in the building, immovable property, movable property or asset listed in Article 268 paragraph 4 of the present Code shall have an opportunity to object to the temporary measures proposed by the state prosecutor.
2. If the building, immovable property, movable property or asset is alleged to have been used in a criminal offence, the person objecting to the temporary measure must establish that:
 - 2.1. he or she did not know of the use of the property in the criminal offence,
 - 2.2. he or she could not have known of the use of the property in the criminal offence,
 - 2.3. the property cannot be used again for a criminal offence, and
 - 2.4. the temporary measure being proposed would unreasonably harm the interests of the person objecting.
3. If the building, immovable property, movable property or asset was alleged to have been a material benefit acquired by criminal offence, the person objecting to the temporary measure must establish that:
 - 3.1. he or she has had a property interest in the building, immovable property, movable property or asset for over 6 months prior to the temporary confiscation of the property,
 - 3.2. he or she paid a market rate for the property interest in the building, immovable property, movable property or asset,

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- 3.3. he or she did not know of acts in furtherance of the criminal offence,
 - 3.4. the suspect or defendant would be unable to use, transfer, or otherwise access the building, immovable property, movable property or asset, and
 - 3.5. the temporary measure being proposed would unreasonably harm the interests of the person objecting.
4. The objection may propose a less restrictive temporary measure or no temporary measure be ordered.
 5. The objection may challenge whether the description of the building, immovable property, movable property or asset subject to the request is correct.

Article 271 Objections by Defendant

1. The defendant may object to the request for temporary measures under Article 268 of the present Code.
2. The objection may challenge whether:
 - 2.1. the description of the building, immovable property, movable property or asset subject to the request is correct,
 - 2.2. there is a grounded suspicion that the building, immovable property, movable property or asset was either:
 - 2.2.1. the proceed of the criminal offence being investigated; or
 - 2.2.2. used or intended to be used in the commission of the criminal offence;
 - 2.3. there is a substantial likelihood that the building, immovable property, movable property or asset will be unavailable for confiscation at the conclusion of the criminal proceedings or will be used in the commission of a criminal offence unless temporary measures are taken;
 - 2.4. the proposed temporary measures to be taken under Article 269 of the present Code are reasonable or necessary.

Article 272 Hearing for Order of Temporary Measures

1. The pretrial judge shall decide on the request for temporary measures filed by the state prosecutor under Article 273 of the present Code if the court receives no objections within fourteen (14) days of the request.
2. If, within fourteen (14) days of the request, the pretrial judge receives an objection from the defendant or from a third party, the pretrial judge may issue a written order under Article 273 of the present Code without a hearing or after a hearing.
3. A pretrial judge may require a hearing before ordering temporary measures under Article 273 of the present Code if the defendant or third party has raised a factual question that requires the taking of evidence or clarification of facts.

Article 273
Order of Temporary Measures

1. The pretrial judge shall order, modify or deny the temporary measures requested by the state prosecutor under Article 268 of the present Code.
2. An order under paragraph 1 of this Article which orders or modifies a temporary measure requested by the state prosecutor under Article 268 of the present Code shall describe:
 - 2.1. the building, immovable property, movable property or asset subject to the request,
 - 2.2. the grounded suspicion that the building, immovable property, movable property or asset was either:
 - 2.2.1. the proceed of the criminal offence being investigated; or
 - 2.2.2. used or intended to be used in the commission of the criminal offence;
 - 2.3. the substantial likelihood that the building, immovable property, movable property or asset will be unavailable for confiscation at the conclusion of the criminal proceedings or will be used in the commission of a criminal offence unless temporary measures are taken;
 - 2.4. the temporary measures under Article 269 of the present Code which are to be implemented.
 - 2.5. the order shall also provide reasoning for the rejection of any objections received under Article 270 or Article 271 of the present Code or the modification of the temporary measures due to those objections.
 - 2.6. the order may place a reasonable time limit on the temporary measure.
 - 2.7. the order shall be transmitted to the Agency for Managing Sequestered or Confiscated Assets within ten (10) days.
 - 2.8. the Agency for Managing Sequestered or Confiscated Assets shall execute the order within fifteen (15) days of the issuance of the order, unless an objection is filed under paragraph 4 of this Article.
3. By order under paragraph 1 of this Article which denies a temporary measure requested by the state prosecutor under Article 268 of the present Code shall instead be ordered the property to be released to the owner or possessor.
 - 3.1. the order shall be transmitted to the Agency for Managing Sequestered or Confiscated Assets within ten (10) days.
 - 3.2. the Agency for Managing Sequestered or Confiscated Assets shall execute the order within fifteen (15) days of the issuance of the order, unless an objection is filed under paragraph 4 of this Article.
4. An objection to the order of temporary measures under this Article may be heard by a review panel. An objection stays the execution of the order under this Article until the decision by the review panel.

2. PROCEDURES AFTER INDICTMENT

Article 274

Inclusion of property that is subject to criminal forfeiture in the indictment

1. If a building, immovable property, movable property or asset subject to an order under Article 273 of the present Code or long-term attachment order under Article 266 of the present Code is not listed in the indictment in compliance with Article 241, paragraph 1 sub-paragraph 1.9 of the present Code, prior to the second hearing the owner or possessor may file a request to the single trial judge or presiding trial judge to release the property to the owner or possessor.
2. If the building, immovable property, movable property or asset subject to an order under Article 273 or long-term attachment order under Article 266 of the present Code is subject to another legal process of forfeiture, the single trial judge or presiding trial judge shall deny the request under paragraph 1 of this Article.
3. If the building, immovable property, movable property or asset subject to an order under Article 273 or long-term attachment order under Article 266 of the present Code is necessary as evidence at the main trial, the single trial judge or presiding trial judge shall deny the request under paragraph 1 of this Article.
4. If the building, immovable property, movable property or asset subject to an order under Article 273 or long-term attachment order under Article 266 of the present Code may be listed in an indictment that has not been filed, the state prosecutor shall inform the single trial judge or presiding trial judge. The single trial judge or presiding trial judge shall suspend the request under paragraph 1 of this Article, but will permit the requestor to renew the request in six (6) months if no other indictment is filed.
5. If no other indictment is filed and the requestor renews the request after six (6) months, the single trial judge or presiding trial judge shall issue an order under paragraph 6 of this Article. The state prosecutor may request an extension of three (3) months only under exceptional circumstances.
6. The single trial judge or presiding trial judge shall grant the request under paragraph 1 of this Article after verifying that the building, immovable property, movable property or asset subject to an order under Article 273 or long-term attachment order under Article 266 of the present Code is not listed in the indictment in compliance with Article 241, paragraph 1 subparagraph 1.9 of the present Code.
7. An order under this Article may be appealed. An appeal under this paragraph shall not delay the criminal proceedings or the execution of an order under this Article.

Article 275

Evidence required to forfeit material benefits acquired by criminal offence

1. Before the court can order a final order of criminal forfeiture for a building, immovable property, movable property or asset listed in the indictment, the indictment shall allege and the state prosecutor shall prove at the main trial that the building, immovable property, movable property or asset was a material benefit of

the criminal offence being investigated, in accordance with Articles 276-280 of the present Code.

2. The state prosecutor, injured party or defendant may question witnesses and submit evidence at the main trial to support or contest the proof required under paragraph 1 of this Article.
3. A qualified financial expert may express an opinion whether the building, immovable property, movable property or asset listed in the indictment was proceed of the criminal offence being investigated in a report under Article 148 of the present Code and during testimony at the main trial.
4. If the injured party has filed a property claim to recover the property acquired through the commission of a criminal offence or to receive the monetary equivalent thereof, that property claim may support the proof required under paragraph 1 of this Article, but may not serve as the sole or decisive proof under paragraph 1 of this Article.

Article 276

Determination of Material Benefits of Criminal Offence

1. A building, immovable property, movable property or asset that was directly obtained due to the acts constituting the criminal offence is a material benefit acquired by that criminal offence.
2. Funds that were directly obtained due to the acts constituting the criminal offence are a material benefit acquired by that criminal offence.
3. A building, immovable property, movable property or asset that was purchased by funds that were directly obtained due to the acts constituting the criminal offence is a material benefit acquired by that criminal offence.
4. Funds that were indirectly obtained due to the acts constituting the criminal offence, including interest, gross profit, or an increase due to the rate of monetary exchange, shall be a material benefit of that criminal offence if the indirectly obtained funds would not have been created without funds described in paragraph 2 of this Article.
5. A building, immovable property, movable property or asset that was purchased by funds that were indirectly obtained in accordance with paragraph 4 of this Article is a material benefit acquired by that criminal offence.

Article 277

Accounting for Material Benefit of Criminal Offence

1. For the purposes of the present code, if funds which are a material benefit of a criminal offence are commingled with funds that are not a material benefit of a criminal offence, any amount which is available for forfeiture and which is equal to or less than the amount of the material benefit shall be considered to be material benefit of the criminal offence.
2. The single trial judge or trial panel shall rely on rules of accounting and the available evidence to determine a reasonable estimate of the amount of the material benefit of the criminal offence.

Article 278

Material Benefit of Criminal Offence Possessed by Third Party

1. If proceeds of a criminal offence are transferred to another person, business organization or legal person prior to confiscation, those proceeds shall be subject to confiscation if:
 - 1.1. the proceeds of the criminal offence were transferred from the possession of the defendant,
 - 1.2. the transfer was for substantially less than the fair market value of the criminal proceeds, and
 - 1.3. there is evidence that the defendant still retains control or use of the criminal proceeds.
2. If the proceeds of a criminal offence are in the possession of another person, business organization or legal person, those proceeds shall be subject to confiscation if:
 - 2.1. the person, business organization or legal person obtained possession of the proceeds of a criminal offence as a direct result of the criminal offence,
 - 2.2. there is evidence that the defendant still retains control or use of the criminal proceeds or maintains control of the business organization or legal person.

Article 279

Rights of Third Party Possessing Material Benefit of Criminal Offence

1. Where the confiscation of a material benefit acquired by the commission of a criminal offence is at issue, the person to whom the material benefit has been transferred, including the representative of a business organization or legal person, shall be summoned for examination during the investigation and at the main trial. He or she shall be informed that proceedings may be conducted in his or her absence.
2. The representative of a business organization or legal person shall be examined at the main trial after the accused. The same shall apply in respect of a recipient of the material benefit, if he or she was not summoned as a witness.
3. The recipient of the material benefit and the representative of a business organization or legal person shall, in connection with determination of the material benefit, be entitled to move for evidence to be taken and, with the permission of the single trial judge or presiding trial judge, to put questions to the defendant, witnesses and expert witnesses.
4. The exclusion of the public from the main trial shall not apply in respect of the recipient of the material benefit, including the representative of a business organization or a legal person.
5. If the court finds only in the course of the main trial that the issue of confiscation of the material benefit acquired by the commission of a criminal offence is at issue, it shall recess the main trial and summon the person to whom the material benefit has been transferred or the representative of a business organization or a legal person.

Article 280

Procedure for Third Party Possessing Material Benefit of Criminal Offence

1. Confiscation and forfeiture of the material benefit acquired by the commission of a criminal offence may be imposed in a judgment in which the accused is declared guilty or a judicial admonition is imposed, as well as in a ruling on a measure of mandatory rehabilitation treatment of perpetrators addicted to alcohol or drugs.
2. In the enacting clause of the judgment or ruling the court shall specify the object or sum of money to be confiscated. Where there are justifiable grounds, the court shall permit the payment of the material benefit in installments fixing the time limit and the amounts thereof.
3. A certified copy of the judgment or ruling shall be served on the person to whom the material benefit has been transferred as well as on the representative of a business organization or a legal person, if the court has imposed the confiscation of material benefit acquired by the commission of a criminal offence on that person, business organization or legal person.

Article 281

Property Resulting from Corrupt Acts

1. In cases in which criminal proceedings are not concluded with a judgment in which the accused is pronounced guilty, objects originating from a criminal offence under Article 344 of the Criminal Code and unlawfully given or accepted rewards, gifts or benefits as provided for in Articles 214, 314, 315, 428, 429, 430 and 431 of the Criminal Code shall also be confiscated:
 - 1.1. if the legal elements of a criminal offence under Article 344 of the Criminal Code are established and it is also established that certain objects originate from a criminal offence under Article 344 of the Criminal Code; or
 - 1.2. if the legal elements of a criminal offence under Article 214, 314, 315, 428, 429, 430 and 431 of the Criminal Code are established and it is also established that a reward, gift or benefit was given or accepted.
2. Upon the reasoned application of a state prosecutor, the court shall render a separate ruling on confiscation under paragraph 1 of the present Article. The state prosecutor shall submit in the application all data and circumstances of importance for the determination of the proceeds of crime, the objects originating from the criminal offence or the unlawfully given or received reward, gift or benefit.
3. A certified copy of the ruling under paragraph 2 of the present Article shall be served on the owner of the confiscated money or property, if he or she is known. If the owner is unknown, the ruling shall be displayed on the bulletin-board of the court and, after eight (8) days, the service on the unknown owner shall be deemed to have been performed.
4. Owners of confiscated money or property shall have the right to appeal against the ruling under paragraph 2 of the present Article, if they consider that there were no legal grounds for confiscation.

Article 282
Property Subject to Automatic Forfeiture

1. Property that is inherently dangerous or illegal shall be subject to forfeiture automatically, regardless of the finding of the single trial judge or trial panel regarding the guilt or innocence of the defendant. The possessor, user, or defendant shall not have a right to object.
2. Property subject to paragraph 1 of this Article shall include:
 - 2.1. weapons that have been used in or created by a criminal act under Articles 371 to 376 of the Criminal Code.
 - 2.2. chemicals, objects, substances, equipment or weapons that have been used in or created by a criminal act under Articles 121,122, 124, 125, 127, 128, 129, 135, 136, 137, 138, 139, 140, 143, 144, 147, 148, 149, 150, 151, 152, 153, 158, 159, 161, 163, 172, 173, 174, 175, or 176 of the Criminal Code.
 - 2.3. chemicals or substances used in or created by a criminal act under Articles 262, 263, 264, 265, 266, 269, 270, 346, 347, 348, 350, 353, 354 or 355 of the Criminal Code, as well as any animals, crops, food or water contaminated by the criminal act.
 - 2.4. chemicals, plants, laboratory equipment or substances used in or created by a criminal act under Articles 272-280 of the Criminal Code.
 - 2.5. counterfeit money or items used in or created by a criminal act under Article 292, 293, 301 303, or 306 of the Criminal Code.
3. For items listed in paragraph 2 of this Article which are necessary as evidence for the main trial, the item shall be destroyed or otherwise rendered safe, but photographs, laboratory tests or an expert report shall serve as admissible evidence of the existence, identity and composition of the inherently dangerous item. For items under paragraph 2, subparagraphs 2.2, 2.3, 2.4 and 2.5 of this Article, a small sample shall be retained.
4. The police shall inform the state prosecutor of actions taken under paragraph 3 of this Article within twenty-four (24) hours.

Article 283
Proof Required to Forfeit Property Used in Criminal Offence

1. Before the court can order a final order of criminal forfeiture for a building, immovable property, movable property or asset listed in the indictment, the indictment shall allege and the state prosecutor shall prove at the main trial that the building, immovable property, movable property or asset was used in the criminal offence.
2. For the purpose of this Article, a building, immovable property, movable property or asset was used in the criminal offence if:
 - 2.1. the building, immovable property, movable property or asset was directly used to perform an act in furtherance of the criminal offence,
 - 2.2. the building, immovable property, movable property or asset provided shelter that was necessary to perform an act in furtherance of the criminal offence,

- 2.3. the building, immovable property, movable property or asset was used to fund an act or acts in furtherance of the criminal offence, or
- 2.4. the building, immovable property, movable property or asset was necessary to facilitate an act in furtherance of the criminal offence. A building, immovable property, movable property or asset is necessary to facilitate the act if the criminal offence would not have occurred except for the use of the building, immovable property, movable property or asset.
3. The state prosecutor, injured party or defendant may question witnesses and submit evidence at the main trial to support or contest the proof required under paragraph 1 of this Article.
4. A qualified financial expert may express an opinion whether the building, immovable property, movable property or asset listed in the indictment was a proceed of the criminal offence being investigated in a report under Article 148 of the present Code and during testimony at the main trial.
5. If the injured party has filed a property claim to recover the objects acquired through the commission of a criminal offence or to receive the monetary equivalent thereof, that property claim may support the proof required under paragraph 1 of this Article, but may not serve as the sole or decisive proof under paragraph 1 of this Article.

Article 284

Reasoned Order that Property is Forfeited Required

1. The single trial judge or trial panel shall, concurrent with the judgment of the trial, issue an order supported by reasoning that determines whether each building, immovable property, movable property or asset listed in the indictment in compliance with Article 241, paragraph 1 subparagraph 1.9 of the present Code, shall be forfeited or released.
2. Each building, immovable property, movable property or asset listed in the indictment in compliance with Article 241, paragraph 1 subparagraph 1.9 of the present Code shall be considered separately in the order under paragraph 1 of present Article.
3. The state prosecutor may request that the building, immovable property, movable property or asset be sold or liquidated. Funds from the sale or liquidation shall be used in accordance with paragraph 5 of this Article.
4. The state prosecutor may request that the building, immovable property, movable property or asset be retained for the use by the government of Kosovo.
5. If funds are forfeited directly or through paragraph 3 of this Article, the state prosecutor, injured party or victim advocate may request that the funds be used to compensate the injured party. Any remaining funds shall be transferred to the budget.
6. The order under paragraph 1 of this Article shall instruct the Agency on the Management of Sequestered or Confiscated Assets to sell, liquidate, or retain the building, immovable property, movable property or asset. If a request under paragraph 5 of this Article is made, the court may order the compensation of the injured party. The single trial judge or trial panel may set additional conditions on the use of the property, if retained by the government.

7. The order shall be sent to anyone who has a property right in the building, immovable property, movable property or asset, who may appeal the order.
8. If the order is not appealed within one (1) week, the order shall be sent to the Agency on the Management of Sequestered or Confiscated Assets for execution.

CHAPTER XIX MAIN TRIAL

1. Preparation for the Main Trial

Article 285 Scheduling of Main Trial

1. The day, hour and venue of the main trial shall be determined by an order issued by the single trial judge or presiding trial judge in accordance with Article 254 of the present Code.
2. The single trial judge or presiding trial judge shall schedule the main trial to commence within one (1) month from the second hearing or the last order issued under Article 254 paragraph 5 of the present Code.
3. If the single trial judge or presiding trial judge determines that the trial cannot be held within the time period set in paragraph 2 of this Article, the single trial judge or presiding trial judge shall issue a decision delaying the main trial until the first available date.
4. If the single trial judge or presiding trial judge determines that the trial cannot be held within the time period set in paragraph 2 of this Article because of the absence of the defendant, the single trial judge or presiding trial judge shall issue an order for the defendant's arrest. If the defendant has not been present for the initial hearing or second hearing, the single trial judge or presiding trial judge shall issue a decision suspending the main trial as to the missing defendant. The main trial shall commence as to the missing defendant when he or she is arrested.

Article 286 Venue of Main Trial

1. The main trial shall be held at the place where the court has its seat, and in the courthouse.
2. Where, in a particular case, the courthouse is unsuitable due to the lack of space or other justified reasons, president of the court may order that the main trial be held in another building.

Article 287 Persons Summoned to Main Trial

1. The persons summoned to appear at the main trial shall include the accused, his or her defence counsel, the state prosecutor, the injured party and their legal representatives and authorized representatives, as well as the interpreter. Witnesses

and expert witnesses proposed by the state prosecutor in the indictment and by the accused under Article 256 of the present Code shall also be summoned to the main trial.

2. Articles 174 and 132 of the present Code shall apply to the contents of the summonses served on the accused and witnesses. The summons served on the accused shall state that he or she will be deemed to have renounced his or her right to appeal if he or she fails to declare an appeal within eight (8) days of the date of the announcement of the judgment. When defence is not mandatory, the accused shall be instructed in the summons that he or she has the right to engage defence counsel but that the main trial need not be postponed because defence counsel has not come to the main trial or because the accused has engaged defence counsel only at the main trial.
3. The accused shall be served with the summons no less than eight (8) days before the main trial so as to have sufficient time between the service of the summons and the day of the main trial to prepare his or her defence. At the request of the accused, or at the request of the state prosecutor and with the agreement of the accused, this prescribed period of time may be shortened.
4. The injured party who has not been summoned to appear as a witness shall be informed in a summons that the main trial may be held in his or her absence and that his or her statement on a property claim shall be read.
5. The accused, witnesses and expert witnesses shall be informed in the summonses of the consequences of failure to appear at the main trial.
6. At the request of the Ombudsperson of Kosovo, the Ombudsperson shall also be notified of the main trial for the purpose of monitoring the criminal proceedings within the limits of his or her authority.

Article 288 **Requests after Main Trial Scheduled**

1. The parties, defence counsel and the injured party may request even after the main trial has been scheduled that new witnesses or expert witnesses be summoned to the main trial or that new evidence be collected. The request must be supported by reasoning and must indicate which facts are to be proven and by which of the items of evidence proposed.
2. The single trial judge or presiding trial judge shall grant a request under paragraph 1 of this Article if the new witness, new expert witness or new evidence was unknown at the time of the second hearing, does not substantially duplicate another witness, expert witness or evidence, and the defendant's right to a fair trial could be harmed by rejecting the request.
3. If the single trial judge or presiding trial judge rejects the motion for new evidence to be collected, such rejection may be appealed within forty-eight (48) hours of the receipt of the order denying the request.
4. The parties and defence counsel shall be informed of the order to collect new evidence prior to the opening of the main trial.

Article 289
Reserve Judges

If it appears that the main trial may last for some time the presiding trial judge may request the president of the court to assign one judge to attend the main trial in order to replace members of the trial panel in the event that they are prevented from attending the main trial. This judge shall be called the reserve judge. If a special investigative opportunity was held during the criminal proceedings, one of the two (2) judges who served on that panel, but were not the pretrial judge, shall serve as a member of the trial panel and the other as a reserve judge.

Article 290
Examination of Witnesses or Expert Witnesses Outside of Trial

1. If a witness or an expert witness who was summoned to the main trial is unable to appear because of a chronic illness or some other impediment, such witness or expert witness may be examined at the place where he or she resides, unless such witness or expert witness has already been examined during a special investigative opportunity.
2. The parties, defence counsel and the injured party shall be informed of the time and place of the examination if that is possible considering the urgency of the proceedings. If the accused is in detention on remand the single trial judge or presiding trial judge shall decide whether his or her presence at the examination is necessary, providing that in the absence of the accused his or her defence counsel can be present. When the parties, the defence counsel and the injured party are present, they shall have the rights under Article 149 paragraph 6 of the present Code.

Article 291
Adjournment of Main Trial

1. The single trial judge or presiding trial judge may for well-founded reasons adjourn the date of the main trial upon motion of the parties, the defence counsel or *ex officio*.
2. If the single trial judge or presiding trial judge adjourns the date of the main trial under paragraph 1 of this Article, he or she may schedule periodic hearings to discuss the status of the case, pending issues and to ensure a timely disposition of the case or scheduling of the main trial.

Article 292
Withdrawal of indictment prior to opening of the main trial

1. The state Prosecutor may withdraw the indictment prior to opening of the main trial if he/she files a notice of withdrawal from the indictment. In such a case the single trial judge or presiding trial judge shall dismiss the indictment.
2. A withdrawn indictment may not be refiled by the state prosecutor.

2. Public character of the Main Trial

Article 293

Publicity of the main trial

1. The main trial shall be held in open court.
2. The main trial may be attended by the adults.
3. No arms or dangerous instruments are allowed inside the courtroom except for police officers guarding the accused who are authorized by the single trial judge, presiding trial judge or president of the court.

Article 294

Public May be Excluded

1. At any time from the beginning until the end of the main trial, the single trial judge or trial panel may exclude on the motion of the parties or *ex officio*, but always after it has heard the parties, the public from the whole or part of the main trial if this is necessary for:
 - 1.1. protecting official secrets;
 - 1.2. maintaining the confidentiality of information which would be jeopardized by a public hearing;
 - 1.3. maintaining law and order;
 - 1.4. protecting the personal or family life of the accused, the injured party or of other participants in the proceedings;
 - 1.5. protecting the interests of children; or
 - 1.6. protecting injured parties, cooperative witnesses and witnesses as provided for in Chapter XIII of the present Code.

Article 295

Persons that shall not be excluded from the main trial and maintenance of confidentiality

1. The exclusion of the public shall not apply to the parties, the injured party, their representatives and the defence counsel, except under the conditions of the provisions regarding the protection of injured parties, cooperative witnesses and witnesses as set forth in Chapter XIII of the present Code.
2. The single trial judge or presiding trial judge may grant permission for certain officials, academics, public figures and, on the request of the accused, also the spouse or extra-marital partner of the accused and his or her close relatives to attend a main trial which is not open to the public.
3. The single trial judge or presiding trial judge shall warn the persons attending the main trial which is closed to the public of their obligation to keep confidential all information that comes to their knowledge at the trial and shall inform them that disclosing such information constitutes a criminal offence.

Article 296
Decision to Exclude

1. The exclusion of the public shall be determined by the single trial judge or presiding trial judge in a ruling which must be supported by reasoning and made public.
2. The ruling on the exclusion of the public may be challenged only in an appeal against the judgment.

3. Conduct of the Main Trial

Article 297
Main Trial with Single Trial Judge

1. If the trial is before a single trial judge, the single trial judge, recording clerk and any assigned reserve judge shall be continuously present at the main trial.
2. It shall be the duty of the single trial judge to confirm that the court has been constituted in accordance with the law and whether there are reasons for excluding the recording clerk.

Article 298
Main Trial with Trial Panel

1. If the trial is before a trial panel, the presiding trial judge, members of the trial panel, the recording clerk and any assigned reserve judge shall be continuously present at the main trial.
2. It shall be the duty of the presiding trial judge to confirm that the trial panel has been constituted in accordance with the law and whether there are reasons for excluding a member of the trial panel or the recording clerk.

Article 299
Single Trial Judge or Presiding Trial Judge in Charge of Main Trial

1. The single trial judge or presiding trial judge shall direct the main trial and call on the parties, the injured party, the legal and authorized representatives, the defence counsel, and the expert witnesses to give their testimony or pose their questions.
2. Members of a trial panel may pose questions to any witness or expert witness.
3. It shall be the duty of the single trial judge or presiding trial judge to ensure that the case is thoroughly and fairly examined in accordance with the rules of evidence as provided for by the present Code.
4. The single trial judge or presiding trial judge shall ensure that evidence is taken in accordance with Chapter XVI of the present Code.
5. The single trial judge or presiding trial judge shall rule on the motions of the parties.
6. The rulings of the single trial judge or presiding trial judge shall always be announced and entered in the record of the main trial with a brief explanation.

Article 300

Sequence for examination of evidence at the main trial

The main trial shall proceed in the sequence provided for by the present Code. However, the single trial judge or presiding trial judge may decide to alter the sequence of the hearing due to special circumstances, in particular the number of accused, the number of criminal offences or the volume of the evidential material.

Article 301

Maintenance of order and media in the courtroom

1. The single trial judge or presiding trial judge shall be obliged to ensure the maintenance of order in the courtroom and the dignity of the court. Toward this end, he or she may immediately upon the opening of the session warn the persons present to behave properly and not to obstruct the work of the court. The single trial judge or presiding trial judge may order a personal search of persons present at the main trial.
2. The single trial judge or presiding trial judge may order that the audience present at the main trial be removed from the session if it is not possible to ensure by the measures for the maintenance of order provided for by the present Code that the main trial shall be held without disturbance.
3. Photography, film, television and other recordings apart from the official recording of the main trial is permitted, unless the single trial judge or presiding trial judge limits photography, film, television or other recordings in a reasoned written decision.

Article 302

Disturbance of Order or Failure of Comply with Directions of Court

1. If the accused, defence counsel, the injured party, legal or authorized representative, witness, expert witness, interpreter or some other person attending the main trial disturbs order or fails to comply with the directions of the single trial judge or presiding trial judge regarding the maintenance of order, the single trial judge or presiding trial judge shall warn him or her. If the warning is of no avail, the single trial judge or presiding trial judge may order that the accused be removed from the courtroom, while other persons may not only be removed but can also be punished by a fine of up to one thousand (1.000) EUR.
2. With the order of the single trial judge or presiding trial judge the accused may be removed from the courtroom temporarily, but if he or she has already been examined in the main trial he or she may be removed for as long as the evidentiary proceedings last. Before the evidentiary proceedings are concluded, the single trial judge or presiding trial judge shall summon the accused and inform him or her of the course of the main trial. If the accused continues to violate order or if he or she abuses the dignity of the court, the single trial judge or presiding trial judge may order him or her to be removed again. In such case, the main trial shall be concluded in the absence of the accused and the single trial judge or presiding trial

judge or a judge sitting in the trial panel shall inform him or her of the judgment in the presence of the recording clerk.

3. The single trial judge or presiding trial judge may deny the defence counsel or the authorized representative the right to defend or represent their clients at the main trial if after being punished they continue to disturb order. In such case the party shall be requested to engage another defence counsel or authorized representative. If the accused cannot engage another defence counsel immediately or the latter cannot be appointed by the court without prejudice to the defence, the main trial shall be recessed or adjourned. The ruling on this issue, together with an explanation, shall be entered in the record of the main trial. A separate appeal against this ruling shall not be allowed.
4. If a state prosecutor violates order, the single trial judge or presiding trial judge shall notify the supervisor of the state prosecutor of this, and may also suspend the main trial and ask the supervisor of that state prosecutor to appoint another state prosecutor for the case.
5. When the court removes from the courtroom or fines a member of the bar or an attorney in training who violates order, the bar association shall be informed.

Article 303

Appeals of Rulings at Main Trial

1. An appeal may be filed against a ruling imposing punishment; and the single trial judge or trial panel may revoke the ruling.
2. No appeal shall be permitted against other decisions relating to the maintenance of order and the direction of the main trial.

Article 304

Criminal Offences Committed at Main Trial

1. If the accused commits a criminal offence at the main trial, the provisions of Article 351 of the present Code shall apply.
2. If a person other than the accused commits a criminal offence while the court is in session at the main trial, the single trial judge or trial panel may, upon an oral charge by the state prosecutor, recess the main trial and try the criminal offence committed right away or may consider it after concluding the main trial.
3. Where there are grounds to suspect that a witness or an expert witness has given false testimony at the main trial, such offence may not be tried immediately. In such case, the single trial judge or presiding trial judge may order that a separate record be made of the testimony of the witness or the expert witness and that the record be referred to the state prosecutor.
4. If the perpetrator of a criminal offence which is prosecuted *ex officio* cannot be tried immediately, the competent state prosecutor shall be notified of this for further action.

4. Preconditions for the Main Trial

Article 305 Opening of Session

The single trial judge or presiding trial judge shall open the session and announce the case to be tried at the main trial and, if there is a trial panel, the composition of the trial panel. He or she shall then determine whether all the persons summoned have appeared and, if they have not, he or she shall check whether they were served with a summons and whether the absent persons have justified their absence.

Article 306 Failure of the State Prosecutor to Appear at the Main Trial

If the state prosecutor fails to appear at the main trial scheduled upon an indictment which he or she has filed, the main trial shall be adjourned and the single trial judge or presiding trial judge shall notify the chief-prosecutor of the state prosecutor thereof.

Article 307 Failure of Accused to Appear at Main Trial

1. If a duly summoned accused fails to appear at the main trial without justifying his or her absence, the single trial judge or presiding trial judge shall issue an order for arrest of the accused in accordance with Article 175 of the present Code. If the accused cannot be produced immediately, the single trial judge or trial panel shall adjourn the main trial and order that the accused be compelled to appear at the next session. If the accused justifies his or her absence before being arrested, the single trial judge or presiding trial judge shall revoke the order for arrest.
2. If a duly summoned accused is obviously evading the main trial and there are no reasons for his or her detention on remand under Article 187 of the present Code, the single trial judge or trial panel may order detention on remand to ensure his or her presence at the main trial. An appeal against this ruling shall not stay its execution. Articles 185 through 203 of the present Code shall apply, *mutatis mutandis*, to detention on remand ordered for this reason. Unless terminated earlier, the detention shall last until the announcement of the judgment, but no longer than one (1) month.

Article 308 Failure of Defence Counsel to Appear at Main Trial

If a duly summoned defence counsel fails to appear at the main trial without notifying the court of the reason for his or her absence as soon as he or she learns about it, or if the defence counsel leaves the main trial without permission of the single trial judge or trial panel, the court shall ask the accused to engage immediately another defence counsel. If the accused fails to do so and it is impossible to appoint a defence counsel without prejudicing the defence, the main trial shall be adjourned.

Article 309

Failure of Witness or Expert Witness to Appear at Main Trial

1. If a duly summoned witness or an expert witness fails to appear without justification, the single trial judge or trial panel may order that he or she be compelled to appear immediately.
2. The main trial may commence in the absence of a summoned witness or expert witness. In such case, the single trial judge or trial panel shall decide in the course of the main trial whether the main trial should continue in the absence of the witness or the expert witness or should be adjourned or recessed.

5. Adjournment and Recess of the Main Trial

Article 310

Reasons for adjourning the main trial

1. In addition to cases specified in the present Code, the main trial may be adjourned under a ruling of the single trial judge or trial panel, if new evidence has to be collected, or if it is established in the course of the main trial that the accused has become afflicted by a temporary mental disorder or disability after committing the criminal offence, or if there are other impediments which prevent the successful completion of the main trial.
2. Whenever possible, the ruling by which the main trial is adjourned shall specify the day and hour at which the main trial shall be resumed. In the same ruling, the single trial judge or trial panel may order the collection of such evidence that is likely to be lost with the passing of time.
3. No appeal shall be permitted against a ruling under paragraph 2 of the present Article.

Article 311

Change of Composition of Trial Panel during Adjournment

1. When the composition of the trial panel has changed, the adjourned main trial shall start from the beginning. However, after hearing the parties, the trial panel may in this case decide not to examine the witnesses and expert witnesses again and not to conduct a new site inspection, if one was done, but rather to read the testimony of the witnesses and the expert witnesses given at the previous main trial or the record of the site inspection.
2. If the composition of the trial panel has not changed, the adjourned main trial shall be continued and the presiding trial judge shall give a short account of the course of the previous main trial. However, the trial panel may in this case also decide to recommence the main trial from the beginning.
3. If the main trial has been adjourned for more than three (3) months or if it is held before a new presiding trial judge, the main trial shall recommence from the beginning and all the evidence shall be examined again.

Article 312
Recess of Main Trial

1. In addition to instances specified in the present Code, the single trial judge or presiding trial judge may order a recess of the main trial for purposes of rest or at the end of the working day or in order to allow a short period of time for specific evidence to be collected or for the preparation of the prosecution or the defence.
2. A recessed main trial shall always continue in front of the same single trial judge or trial panel.
3. If the main trial cannot continue in front of the same trial panel or if it is recessed for more than eight (8) days, the provisions of the Article 311 of the present Code shall apply.

Article 313
Change in composition of trial panel due to lack of jurisdiction

If in the course of the main trial held before a single trial judge the facts upon which the charge is founded indicate that a criminal offence is involved for which a trial panel of three (3) judges is competent, the trial shall be transferred to an appropriate panel within the Basic Court and the main trial shall recommence from the beginning.

Article 314
Time to Complete Main Trial

1. Unless the single trial judge or trial panel adjourns the main trial under Article 310 of the present Code, the main trial shall be completed within the following time limits:
 - 1.1. if the main trial is before a single trial judge, the main trial shall be completed within ninety (90) days, unless the single trial judge issues a reasoned decision to extend the time for the main trial for one of the reasons in paragraph 2 of the present Article.
 - 1.2. if the main trial is before a trial panel, the main trial shall be completed within one hundred and twenty (120) days, unless the trial panel issues a reasoned decision to extend the time for the main trial for one of the reasons in paragraph 2 of the present Article.
2. The main trial may be extended by a reasoned decision under paragraph 1 of the present Article if there exist circumstances which require more time, including but not limited to:
 - 2.1. there are an unusually large number of witnesses;
 - 2.2. the testimony of one or more witnesses is unusually lengthy;
 - 2.3. the number of exhibits is unusually big; or
 - 2.4. the security of the trial requires the extension.
3. The main trial may be extended for thirty (30) days for each decision under paragraph 1 of the present Article.

6. The Record of the Main Trial

Article 315

Record of the Proceedings of the Main Trial

1. A record must be made in writing of the proceedings of the main trial. The entire course of the main trial in its essentials must be entered in this record.
2. In addition, the main trial shall be either audio- or video-recorded or recorded stenographically, unless there are reasonable grounds for not so doing.
3. The record of the main trial shall include a transcript of the audio-recording of the main trial and a record of the course of the main trial, its main components and decisions taken, as provided for in Articles 317, 318 and 319 of the present Code.
4. When the accused has been punished by imprisonment or after the announcement of an appeal in other instances, the audio- or video-recording of the main trial shall be entirely transcribed within three (3) working days after the completion of the main trial. The time limit may be extended by the single trial judge or presiding trial judge, if this is justified by circumstances, for a period of fifteen (15) days. The single trial judge or presiding trial judge shall review and confirm the transcript and shall insert it in the record as a constituent part of the record of the main trial.
5. The decision on how the main trial shall be recorded shall be taken by the single trial judge or presiding trial judge.

Article 316

Verbatim Record

1. When the main trial is recorded only in writing, the single trial judge or presiding trial judge may order, upon a motion of a party or *ex officio*, that testimony which he or she considers particularly important be entered in the record verbatim.
2. If necessary, and especially where testimony has been entered in the record verbatim, the single trial judge or presiding trial judge may order that particular part of the record to be read immediately. Testimony recorded verbatim shall always be read immediately if so requested by a party, defence counsel or the person whose testimony has been entered in the record.

Article 317

Inspection, correction and signing of the main trial, initial hearing and second hearing records

1. The record of the main trial, initial hearing and second hearing shall be finalized at the end of the session. It shall be signed by the recording clerk, single trial judge, presiding judge and parties that are present.
2. The parties shall be entitled to check the finalized record and attachments, to make comments on the contents and to request corrections.
3. Corrections of incorrectly entered names, numbers and other obvious writing errors may be ordered by the single trial judge or presiding trial judge upon a

motion by a party or a person being examined or *ex officio*. Other corrections and additions to the record may only be ordered by the single trial judge or the trial panel.

4. Comments and motions of parties regarding the record, as well as corrections and amendments to the record, shall be entered in an addendum to the finalized record. The reasons why certain suggestions and comments were not accepted shall also be indicated in the addendum. The recording clerk and either the single trial judge or presiding trial judge shall sign the addendum to the record.

Article 318

Content of the Record of the Main Trial

1. The introductory part of the record of the main trial shall indicate: the court in which the main trial is held; the case number; the venue and the time of the session; the names of the single trial judge or presiding trial judge and panel members, recording clerk, state prosecutor, the accused and his or her defence counsel, the injured party and his or her legal representative or authorized representative, victim advocate, and the name of the interpreter; the criminal offence in question, and whether the main trial was public or the public was excluded.
2. The record shall contain in particular the following information: the identification of the indictment; whether the state prosecutor changed or expanded the indictment; what motions were filed by the parties and what decisions the single trial judge, presiding trial judge or the panel have taken on them; what evidence has been presented; and whether certain records and other writings were read, or sound or other recordings played, exhibits used, and comments of the parties thereon. If the public was excluded from the main trial, the record shall indicate that the single trial judge or presiding trial judge warned those present of the consequences of unauthorized disclosure of confidential information of which they learned at the main trial.
3. Only the essential content of the testimony of the prosecutor, defendant, witnesses and expert witnesses shall be entered in the record. Upon request of a party the single trial judge or presiding trial judge shall order that the record of a previous testimony, or a part thereof, be read.
4. Upon the request of a party, a question or an answer which the single trial judge or trial panel dismissed as impermissible shall also be entered in the record.

Article 319

Entering the enactment clause of the judgment in the record of the main trial

1. The complete enacting clause of the judgment and an indication of whether the judgment was announced in public shall be entered in the record of the main trial. The enacting clause of the judgment contained in the record of the main trial shall be considered as the original.
2. A ruling on detention on remand, if rendered, shall also be entered in the record of the main trial.

Article 320
Records of trial panel's deliberation and voting

1. If the main trial is before a trial panel:
 - 1.1. separate records shall be kept concerning the deliberation and voting of the trial panel.
 - 1.2. the records on the deliberation and voting of the trial panel shall contain the course of the voting and the judgment rendered.
 - 1.3. these records shall be signed by all the members of the trial panel and the recording clerk. Separate opinions shall be appended to the record of the deliberation and voting unless they have been entered in the record.
 - 1.4. the record of the deliberation and voting of the panel of judges shall be sealed in an envelope. This record may be examined only by the higher court when it is ruling on a legal remedy, and in that case it must again seal the record in an envelope and indicate on the envelope that it has examined the record.

7. Commencement of the Main Trial and the Plea of the Accused

Article 321
Attendance of persons summoned at the main trial and establishment of defendant's identity

After the single trial judge or presiding trial judge has established that all persons summoned have appeared at the main trial or the single trial judge or trial panel has decided to conduct the main trial in the absence of some of the persons summoned or to postpone a decision on these issues, the single trial judge or presiding trial judge shall call on the accused and ask him or her to give his or her personal data, except data about prior convictions, in order to determine his or her identity.

Article 322
Initial instructions of the court to witnesses and injured parties

1. Having established the identity of the accused, the single trial judge or presiding trial judge shall direct the witnesses and expert witnesses to a designated place where they shall wait until called upon to testify. The single trial judge or presiding trial judge may, if necessary, call on the expert witnesses to remain in the courtroom to follow the course of the main trial.
2. If the injured party is present and has not yet filed his or her property claim, the single trial judge or presiding trial judge shall remind him or her that he or she may file a motion to realize such claim within criminal proceedings.
3. The single trial judge or presiding trial judge may take necessary measures to prevent collusion between witnesses, expert witnesses and the parties.

Article 323
Instructions to the Accused

1. The single trial judge or presiding trial judge shall invite the accused to follow closely the course of the main trial and shall instruct him or her that he or she may state his or her case, address questions to the co-accused, witnesses and expert witnesses, and make comments on and give explanations of their testimony.
2. The single trial judge or presiding trial judge shall then instruct the accused that:
 - 2.1. he or she has a right not to give testimony in connection with his or her case or to answer any questions;
 - 2.2. if he or she gives testimony, he or she shall not be obliged to incriminate himself or herself or his or her next of kin, nor to confess guilt; and
 - 2.3. he or she may defend himself or herself in person or through legal assistance by a defence counsel of his or her own choice.

Article 324
Reading of Charges in Indictment

The main trial shall open with the reading by the state prosecutor of the charges against the defendant in the indictment. The defendant may waive the reading of the charges against him or her.

Article 325
Plea by Defendant to Indictment

1. The single trial judge or presiding trial judge shall satisfy himself or herself that the accused understands the indictment and afford the accused the opportunity to plead guilty or not guilty.
2. If the accused has not understood the charge, the single trial judge or presiding trial judge shall call on the prosecution to explain the charge in a way the accused may understand without difficulty.
3. If the accused does not want to give any testimony regarding his or her guilt, it shall be considered that he or she has pleaded not guilty.

Article 326
Guilty Plea by Defendant at Trial

1. If the accused pleads guilty on each count of the indictment at the main trial, the trial panel shall determine whether the requirements under Article 248, paragraph 1 of the present Code have been met.
2. In considering a guilty plea of the accused, the single trial judge or presiding trial judge may invite the views of the state prosecutor, the defence counsel and the injured parties.
3. If the trial panel is not satisfied that the requirements under Article 248, paragraph 1, of the present Code have been met, it shall proceed as if the guilty plea has not been made.

4. If the trial panel is satisfied that the requirements under Article 248, paragraph 1, of the present Code have been met, the main trial shall continue with the closing statements.
5. If there are multiple defendants and one or more pleads guilty, the main trial shall continue as to the defendants who did not plead guilty. The single trial judge or presiding trial judge shall postpone the sentencing of the defendants who plead guilty at the beginning of the main trial until the end of the main trial. If evidence had been taken in the main trial that only incriminates the defendant who has plead guilty, but is not relevant evidence against the remaining defendants who have not plead guilty, such evidence cannot be considered against the remaining defendants.
6. If the defendant pleads guilty under this Article as a result of a plea agreement, the single trial judge or presiding trial judge shall follow Article 233 and Article 247 of the present Code *mutatis mutandis*.

8. Order of Presentation of Evidence

Article 327

Sequence of Presentation of Evidence at Main Trial

1. Evidence in the main trial shall be presented in the following order:
 - 1.1. opening statements,
 - 1.2. the evidence presented by the state prosecutor,
 - 1.3. the evidence presented by the injured party, if any,
 - 1.4. the evidence presented by the defendant, and
 - 1.5. closing statements.

9. Opening Statement

Article 328

Opening Statement

1. If the defendant does not plead guilty at the beginning of the trial, the single trial judge or the presiding trial judge shall call on the state prosecutor, the injured party and the defence counsel to summarize the evidence that supports their case or claim. The state prosecutor shall speak first, then the injured party and the defence counsel.
2. Persons presenting opening statements may refer to the admissible evidence, the applicable law, and may use charts, diagrams, court-approved transcripts of tapes, summaries and comparisons of evidence, if they are based on admissible evidence, as well as enlargements of exhibits and any demonstrative or illustrative exhibit or demonstration made in court.
3. The presentation of opening statements by the parties may be subject to time limits by the single trial judge or presiding trial judge.

10. Presentation of Evidence

Article 329

General Rules of Presentation of Evidence

1. Presentation of evidence shall include all facts deemed by the court to be important for a correct and fair adjudication.
2. The rules of evidence as provided for in Chapter XIV of the present Code shall be observed during the main trial.
3. The parties and the injured party may until the conclusion of the main trial move that new facts be looked into and that new evidence be collected and shall be entitled to repeat the motions which the single trial judge, presiding trial judge or the trial panel had earlier dismissed.
4. In addition to the evidence proposed by the parties or the injured party, the trial panel shall have the authority to collect evidence that it considers necessary for the fair and complete determination of the case.

Article 330

Examination of witness or expert without the presence of other witnesses

A witness who has not yet testified shall not, as a rule, attend the presentation of evidence, and an expert witness who has not yet given his or her expert findings and opinion shall not attend a hearing when another expert witness gives testimony on the same matter.

Article 331

Evidence Given by Witness at Main Trial

1. The single trial judge or presiding trial judge shall issue a schedule of the witnesses, beginning with the witnesses proposed by the state prosecutor, the witnesses proposed by the injured party or victim advocate, and then the witnesses proposed by the defendant or defence counsel. If possible, the schedule shall call witnesses in the order that the state prosecutor, injured party, victim advocate, defendant and defence counsel proposed.
2. The state prosecutor, defendant or injured party may request the court to hear witnesses to rebut testimony or evidence presented by opposing parties under paragraph 1 of the present Article.

Article 332

Direct examination, Cross Examination and reexamination of witness

1. When a party presents evidence, the party proposing the evidence shall question the witness or present the evidence first.
2. Other parties will then be given the opportunity to cross examine the witness or challenge the witness' credibility.
3. The party who sponsored the evidence shall be given the final opportunity to clarify answers with the witness or rehabilitate the witness' credibility.

4. If a party is represented by more than one counsel, only the lead counsel may examine witnesses, cross examine witnesses and rehabilitate witnesses.

Article 333

Direct Examination of Witnesses

1. The party who proposes the witness shall examine him or her first.
1. The party examining the witness may ask questions of the witness in compliance with the rules of evidence.
2. The party may show a witness an exhibit in compliance with Article 336 of the present Code.
3. If a witness or an expert witness cannot recall the facts he or she has presented in previous testimony, the party who proposes the witness may show him or her admissible evidence which refreshes his or her memory.

Article 334

Cross Examination of Witnesses

1. The party who is cross examining a witness may:
 - 1.1. ask questions of the witness in compliance with the rules of evidence; and
 - 1.2. ask the witness to confirm or deny a fact. If the witness provides an answer that is contradicted by admissible evidence, the party cross examining the witness may then show or read the contradicting evidence to the witness. The party cross examining the witness or the court may ask the witness to explain the difference;
 - 1.3. ask questions of the witness which examine the reliability of the witness' testimony or any bias the witness may have.
2. Exhibits used during cross examination shall be clearly identified for the court and the record shall reflect the use of the exhibit.

Article 335

Redirect Examination

After the witness has been cross examined, the party who proposes the witness shall have the opportunity to ask questions that clarify testimony that was unclear, explain differences in testimony, concerns about the reliability of the witness' testimony, or any bias the witness may have.

11. Rules Relating to Witnesses

Article 336

Exhibits in Aid of Witness Testimony

1. A party may show an exhibit to a witness and question the witness about that exhibit during the examination, cross examination or redirect examination.
2. An exhibit may be a document, chart, summary, videotape, audiotape, or other physical evidence.

3. Any exhibit that summarizes or demonstrates admissible evidence that is numerous, large or has been destroyed shall be first shown to a witness who can identify the admissible evidence used, explain how the exhibit was created, and demonstrate that the exhibit is a true, reliable and accurate representation of the original admissible evidence.
4. Any exhibit under paragraphs 2 or 3 of the present Article shall be admitted if it is a true, reliable and accurate representation of the original admissible evidence. The exhibit shall be added to the record if it hasn't already been admitted.

Article 337

Use of prior witness testimony

1. A party present evidence in the main trial from the previous testimony of a witness if it was obtained during a Special Investigative Opportunity under Article 149 of the present Code.
2. A party may present evidence in the main trial from the previous testimony of a witness if it was obtained during a session of pretrial testimony under Article 132 of the present Code, the witness is not available to testify, and a Notice of Corroboration has been filed in accordance with Article 263 of the present Code.
3. The state prosecutor may present evidence in the main trial from audiotapes or videotapes of the accused taken in accordance with Article 88 or Article 92 of the present Code.
4. If a videotape or audiotape of the testimony or statement under paragraphs 1-3 of the present Article was made, it shall be replayed at the main trial in its entirety, unless the single trial judge or trial panel decides that the entire videotape or audiotape would contain excessive irrelevant information. In such case, the single trial judge or trial panel can order specific, relevant portions of the videotape or audiotape to be replayed at trial.
5. This Article does not prohibit the use of prior statements by a witness during the cross-examination of that witness.

Article 338

Reading of other previously entered statements

1. Except in cases provided for in the present Code, records containing the testimony of witnesses, the co-accused or participants who have already been convicted of the criminal offence as well as records and other documents regarding the findings and opinions of expert witnesses may be read according to a decision of the trial panel only in the following cases:
 - 1.1. if the persons who have been examined have died, become afflicted with mental disorder or disability or cannot be found, or if their appearance before the court is impossible or involves considerable difficulties due to old age, illness or other important reasons;
 - 1.2. if the witnesses or expert witnesses refuse to testify at the main trial without lawful reasons; or
 - 1.3. if the parties agree that the direct examination of a witness or expert witness

- who has failed to appear, irrespective of whether he or she has been summoned or not, be replaced by reading the records of his or her previous examination.
2. Records of previous examinations of persons exempt from the duty to testify may not be read if such persons were not summoned to the main trial or if they exercised their right not to testify at the main trial. If such persons exercised their right not to testify at the main trial after they had already been examined or if they did not come to court when summoned, the record of their prior examination shall be inadmissible evidence.
 3. The reasons for the reading of the record shall be indicated in the record of the main trial and during the reading it shall be announced whether or not the witness or expert witness took the oath.

Article 339

Witnesses Subject to Special Protection

1. The examination of a witness under the age of sixteen (16) years of age who is a victim of a criminal offence under Chapter XX of the Criminal Code shall not be permitted in the main trial if his or her testimony has already been taken under Article 132 or Article 149 of the present Code and if the trial panel recognizes that a new examination is not necessary. If such witness is examined, the trial panel may decide to exclude the public.
2. If a child is present at a hearing as a witness or an injured party, he or she shall be taken out of the courtroom as soon as his or her presence is no longer necessary.
3. Measures for the protection of injured parties and witnesses as provided for in Chapter XIII of the present Code shall be observed during the main trial.

Article 340

Oath

1. Before the examination of a witness, the single trial judge, presiding trial judge or the pre-trial judge when acting under Article 149 of the present Code may require the witness to take an oath. A child and a person proven or suspected with good reason to have committed the criminal offence or participated in the criminal offence in relation to which he or she is being examined cannot be required to take an oath. If a witness has taken an oath in the pre-trial proceedings, he or she shall only be reminded at the main trial of the oath already taken.
2. The oath of a witness shall read: "Conscious of the significance of my testimony and my legal responsibility I solemnly swear that I shall tell the truth, the whole truth, and nothing but the truth, and that I shall not withhold anything which has come to my knowledge."
3. Before the beginning of the examination of an expert witness, the single trial judge or presiding trial judge may require him or her to take an oath. Prior to the main trial, the expert witness may take an oath only before the court and only where there is a danger that he or she might be kept from appearing at the main trial. The reason for his or her taking an oath shall be entered in the record. A permanent

expert witness who has taken a general oath for the type of examinations concerned shall be only reminded at the main trial of the oath already taken.

4. The oath of an expert witness shall read: “Conscious of the significance of my testimony and my legal responsibility, I solemnly swear that I shall perform my expert analysis conscientiously and to the best of my knowledge and that I shall state my findings and opinion accurately and completely.”
5. Mute witnesses and expert witnesses who are literate shall take the oath by signing the text of the oath, and deaf witnesses and expert witnesses shall read the text of the oath. If a deaf or mute witness or expert witness is illiterate, the oath shall be given through an interpreter.

Article 341 **Expert statement**

1. An expert witness shall communicate his or her findings and opinion to the court through a report that complies with Article 138 of the present Code.
2. At the main trial, the report shall be entered into the record. The expert shall describe his or her findings and explain his or her analysis. The expert may use exhibits in assistance of his or her testimony.
3. The party which did not request the expert analysis may cross-examine the expert witness about his or her report, his or her analysis, or his or her education, experience, or basis for his or her expertise.

Article 342 **Presence of Witnesses in Courtroom**

1. Witnesses and expert witnesses who have been examined shall remain in the courtroom unless the single trial judge or presiding trial judge upon hearing the parties permits them to leave or removes them temporarily from the courtroom.
2. The single trial judge or presiding trial judge may order, on the motion of the parties or *ex officio*, that the examined witnesses and expert witnesses be removed from the courtroom and then called in and examined again in the presence or in the absence of other witnesses and expert witnesses.

Article 343 **Evidence Taken outside of Court**

1. If it becomes known at the main trial that a summoned witness or expert witness is unable to appear before the court or that his or her appearance involves considerable difficulties, the trial panel may, if it deems his or her testimony to be important, order that he or she give his or her testimony to the single trial judge or presiding trial judge or a judge on the trial panel outside the main trial, or that the testimony be given to a pre-trial judge in whose jurisdictional territory the witness or expert witness resides.
2. If an inspection or reconstruction of the event has to be carried out outside the main trial, it shall be conducted by the single trial judge or presiding trial judge or a judge on the trial panel.

3. The parties and the injured party shall always be advised when and where a witness shall be examined or when and where an inspection or reconstruction of an event shall take place, and shall be instructed of their right to attend these actions. If the parties and the injured party are present at these actions, they shall have the rights under Article 149 paragraph 2 of the present Code.

Article 344

Reading of records or replay of recordings

1. The record of a site inspection conducted outside the main trial, of a search of premises and a person and of the confiscation of objects, documents, books, files and other papers as well as technical recordings of evidentiary value shall be read or reproduced at the main trial in order to establish their contents. The trial panel shall have the discretion to allow an oral summary of these records, as well as the reproduction of the sound or camera recordings of the course of these investigative actions. Documents of evidentiary value shall, if possible, be submitted in their original form.
2. Objects which may serve to clarify an issue may in the course of the main trial be shown to the accused and, if need be, to a witness or an expert witness.

Article 345

Examination of the Accused after Presentation of Evidence

1. After the examination of witnesses, expert witnesses and presentation of material evidence the examination shall take place of the accused who has pleaded not guilty.
2. The provisions applying to the examination of the defendant in the pre-trial proceedings shall apply *mutatis mutandis* to the examination of the accused at the main trial.
3. Co-accused who have not yet been examined shall not be present during the examination of the accused.

Article 346

Examination of the Accused

1. The accused has the right to not declare. If he or she chooses to declare, his or her testimony shall be conducted in accordance with paragraph 2 through 4 of the present Article.
2. The lead defense counsel shall question the defendant in accordance with Article 333 of the present Code.
3. The state prosecutor shall question the defendant in accordance with Article 334 of the present Code.
4. The co-defendants, if any, may question the defendant in accordance with Article 334 of the present Code.
5. The injured party may question the defendant in accordance with Article 334 of the present Code.

6. The defense counsel may conduct redirect examination of the defendant in accordance with Article 335 of the present Code.
7. After the single trial judge or presiding trial judge has assured himself or herself that the parties have no more questions, he or she may proceed to examine the accused, if the testimony or answers of the accused contain gaps, ambiguities or contradictions. Thereafter, the trial panel may put questions directly to the accused.
8. After the examination has been completed, the single trial judge or presiding trial judge shall ask the accused whether he or she has anything to add in his or her defence. If the accused elaborates upon his or her defence, he or she may again be examined.

Article 347
Examination of Co-Accused

1. After the examination of the first accused has finished, each of the other accused, if there are any, shall be examined in turn in compliance with Article 346 of the present Code. Each accused shall be entitled to address questions to the other co-accused who have been examined.
2. The previous testimony of co-accused during the main trial may be used by the parties under Article 334 of the present Code. If the testimony of individual co-accused on the same circumstances differ, the single trial judge or presiding trial judge may also confront the co-accused.

Article 348
Motions to Supplement the Evidentiary Proceedings

1. Upon completion of the evidentiary proceedings, the single trial judge or presiding trial judge shall ask the parties and the injured party if they have any motions for supplementing the evidentiary proceedings.
2. If no motions for supplementing the evidentiary proceedings are made or if such motion has been made and denied, and the court finds that the case has been clarified, the single trial judge or presiding trial judge shall announce that the evidentiary proceedings are concluded.

Article 349
Criminal Records of the Accused

The data from the criminal register as well as other data about convictions for criminal offences may be read only when the presentation of evidence is completed. When the accused has pleaded guilty, all the information regarding the previous convictions of the accused shall be read out before the parties make their closing statements.

12. Amendments and Extension of the Indictment

Article 350

Modification of Indictment at Main Trial

1. If the state prosecutor finds in the course of the main trial that the evidence presented indicates that the factual situation as described in the indictment has changed, he or she may modify the indictment orally during the main trial and may also make a motion to recess the main trial in order to prepare a new indictment.
2. If the trial panel grants the recess of the main trial in order for a new indictment to be prepared, it shall determine the time in which the state prosecutor shall be obliged to file a new indictment. A copy of the new indictment shall be served on the accused. If the state prosecutor fails to file a new indictment within the prescribed period of time, the court shall resume the main trial on the basis of the previous indictment.
3. When the indictment has been modified, the accused or the defence counsel may make a motion to recess the main trial in order to prepare the defence. The trial panel shall recess the main trial to allow for the preparation of defence, if the indictment has been substantially modified or extended.

Article 351

Extension of indictment at the main trial

1. If the accused commits a criminal offence during a hearing in the course of the main trial or if a previous criminal offence committed by the accused is discovered in the course of the main trial, the trial panel shall, in acting upon a charge by the state prosecutor which may also be submitted orally, extend the main trial to include this new offence as well.
2. In such case, the court may recess the main trial to give the defence time to prepare, and after hearing the parties it may decide that the accused be tried separately for the offence under paragraph 1 of the present Article.
3. If another department within the basic court is competent to adjudicate a matter under paragraph 1 of the present Article, the panel shall after hearing the parties decide whether it shall refer the matter about which it is conducting the main trial to the competent higher court for adjudication.

13. Closing Statements

Article 352

Parties' Closing Statements

1. Upon completion of the evidentiary proceedings, the single trial judge or presiding trial judge shall call on the parties, the injured party and the defence counsel to sum up their arguments. The state prosecutor shall speak first, then the injured party and the defence counsel, and finally the accused.
2. Persons presenting closing statements may refer to the admissible evidence, as well

as the proceedings, the applicable law, the character and demeanour of the witnesses as observed in the judicial proceedings, and may use charts, diagrams, court-approved transcripts of tapes, summaries and comparisons of evidence, if they are based on admissible evidence, as well as enlargements of exhibits and any demonstrative or illustrative exhibit or demonstration made in court.

Article 353

Closing Statement by State Prosecutor

1. In his or her closing statement the state prosecutor shall present his or her evaluation of the evidence taken at the main trial, explain his or her conclusions concerning facts which are important for the decision, and shall present and justify his or her proposal regarding the criminal liability of the accused, the provisions of the Criminal Code to be applied and the mitigating and aggravating circumstances to be taken into consideration in considering the punishment. The state prosecutor may not propose the amount of the punishment, although he or she may propose that a judicial admonition or one of the alternative punishments under Article 49 of the Criminal Code be imposed.
2. When the accused who is a cooperative witness pleads guilty based on a plea agreement, the public prosecutor may recommend the range of punishment, judicial admonition or an alternative punishment provided for by the Criminal Code of Kosovo, to the court.

Article 354

Closing Statement on Behalf of Injured Party

In his or her closing statement, the injured party or his or her authorized representative may explain his or her declaration of injury or property claim and call attention to evidence of the criminal liability of the accused.

Article 355

Closing Statement and Comments on Behalf of Accused

1. The defence counsel or the accused himself or herself shall present the defence in a closing statement and may comment on the allegations of the prosecution and the injured party.
2. After the defence counsel has presented arguments for the defence, the accused shall have the right to speak him or herself, to assert whether he or she agrees with the defence presented by his or her counsel and to supplement such defence.
3. The state prosecutor and the injured party shall have the right to respond to the defence, and defence counsel or the accused shall have the right to comment on those responses.
4. The accused shall always have the right to speak last.

Article 356
Presentation of Closing Statements

1. The presentation of closing statements by the parties may be subject to time limits by the single trial judge or presiding trial judge.
2. The single trial judge or presiding trial judge may, upon prior warning, interrupt the speaker who in his or her closing statements offends public order and morality, insults another person, repeats himself or herself or speaks at great length on matters manifestly irrelevant to the case. The interruption and the reason for this shall be noted in the record of the main trial.
3. When several persons act for the prosecution and several defence counsels represent the defence, only the lead counsel or a co-counsel designated by the lead counsel may present closing arguments on behalf of their party.
4. After all closing statements have been presented, the single trial judge or presiding trial judge shall ask whether anyone has any further statement to make.

Article 357
Conclusion of the main trial, deliberation and voting

1. If after the closing statements of the parties the single trial judge or trial panel does not find a need for any further evidence, the single trial judge or presiding trial judge shall indicate that the main trial has been concluded.
2. The single trial judge or trial panel shall then withdraw for deliberation and voting in order to render a judgment.

Article 358
Dismissal of Indictment

1. The trial panel shall dismiss the indictment by a ruling:
 - 1.1. if the proceedings were conducted without the request of the state prosecutor;
 - 1.2. if the required motion of the injured party or the permission of the competent public entity is lacking, or if the competent public entity has withdrawn permission; or
 - 1.3. if there are other circumstances which bar prosecution.
2. The single trial judge or trial panel may render a ruling by which the indictment is dismissed even after the main trial has been scheduled.

CHAPTER XX
JUDGMENT

1. Rendering of the Judgment

Article 359
Rendering and announcement of judgment

1. If in its deliberations the court finds that there is no need to re-open the main trial so as to supplement the proceedings or to obtain clarification of a particular issue, the court shall render a judgment.

2. The judgment shall be rendered and announced in the name of the people.

Article 360

Subjective identity and object of the judgment over the indictment

1. The judgment may relate only to the accused and only to an act which is the subject of a charge contained in the indictment as initially filed or as modified or extended in the main trial.
2. The court shall not be bound by the motions of the state prosecutor regarding the legal classification of the act.
3. The court shall not be bound by any agreement between the state prosecutor and the defence regarding modification of the charges or the guilty plea, except for plea agreements accepted by the court under Article 233 of the present Code.

Article 361

Basis of Judgment

1. The court shall base its judgment solely on the facts and evidence considered at the main trial.
2. The court shall be bound to assess conscientiously each item of evidence separately and in relation to other items of evidence and on the basis of such assessment to reach a conclusion whether or not a particular fact has been established.

2. Types of Judgments

Article 362

Form of Judgment

1. The court shall, by a judgment, reject the charge or acquit the accused of the charge or pronounce the accused guilty.
2. If the charge includes several criminal offences, the judgment shall specify whether, and for which offence, the charge is rejected or the accused is acquitted, or the accused is pronounced guilty.

Article 363

Rejection judgment

1. The court shall render a judgment rejecting the charge, if:
 - 1.1. the state prosecutor withdraws the charge during the period from the opening until the conclusion of the main trial;
 - 1.2. the accused was previously convicted or acquitted of the same act under a final judgment or proceedings against him or her were terminated in a final form by a ruling; or
 - 1.3. the period of statutory limitation has expired, an amnesty or pardon covers the act, or there are other circumstances which bar prosecution.

Article 364
Judgment of Acquittal

1. The court shall render a judgment acquitting the accused, if:
 - 1.1. the act with which the accused is charged does not constitute a criminal offence;
 - 1.2. there are circumstances which exclude criminal liability; or
 - 1.3. it has not been proven that the accused has committed the act with which he or she has been charged.

Article 365
Judgment of Guilty

1. In a judgment pronouncing the accused guilty the court shall state:
 - 1.1. the act of which he or she has been found guilty, together with facts and circumstances indicating the criminal nature of the act committed, and facts and circumstances on which the application of pertinent provisions of criminal law depends;
 - 1.2. the legal designation of the act and the provisions of the criminal law applied in passing the judgment;
 - 1.3. the punishment imposed on the accused, including an alternative punishment under the Criminal Code, or a waiver of punishment;
 - 1.4. an order to impose mandatory rehabilitation treatment of perpetrators addicted to alcohol or drugs or to confiscate the assets subject to forfeiture;
 - 1.5. the decision to include the time spent in detention on remand or imprisonment under an earlier sentence in the amount of the punishment; and
 - 1.6. the decision on costs of criminal proceedings and on a property claim and on whether the final judgment should be announced in the press or radio or television.
2. If the accused is punished by a fine, the judgment shall state the time within which he or she must pay the fine and the manner of substituting the fine if the fine cannot be collected by means of compulsion.

3. Announcement of the Judgment

Article 366
Announcement of Judgment

1. The judgment shall be announced by the single trial judge or presiding trial judge immediately after the court has rendered it. If the court is unable to render judgment on the day the main trial is completed, it shall postpone the announcement by a maximum of three (3) days and shall determine the time and place for the announcement of the judgment.
2. The single trial judge or presiding trial judge shall read the enacting clause of the judgment in open court and in the presence of the parties, their legal

- representatives and authorized representatives and defence counsel, after which he or she shall give a brief account of the grounds for the judgment.
3. The judgment shall be announced even in the absence of a party, a legal representative, authorized representative or defence counsel. If the accused is not present, the single trial judge or presiding trial judge may report the judgment to him or her orally or that the judgment shall be served on him or her in writing.
 4. If the public was excluded from the main trial, the enacting clause of the judgment shall always be read out in open court. The trial panel shall decide whether and to what extent the public should be excluded while the grounds for the judgment are announced.
 5. All persons present shall stand while the enacting clause of the judgment is being read.

Article 367

Detention on Remand after Announcement of Judgment

1. In rendering a judgment by which the accused is punished by imprisonment, the single trial judge or trial panel may:
 - 1.1. order extend detention on remand if conditions set forth in Article 187 paragraph 1 of the present Code are met, or
 - 1.2. terminate detention on remand if the accused is in detention on remand and the grounds on which it was ordered have ceased to exist.
2. If a single trial judge or trial panel imposes a sentence with imprisonment of five (5) or more years, and imposes detention on remand, for the accused if he or she is not in detention, or extends it when the accused is already in detention.
3. If the sentence imposed is lower than five (5) years than the detention shall be imposed or extended if conditions set forth in Article 187 paragraph 1 of the present Code are met.
4. The trial panel shall always terminate detention on remand and order the release of the accused if:
 - 4.1. the accused is acquitted of the charge;
 - 4.2. he or she is found guilty but the punishment has been waived;
 - 4.3. he or she is only punished by a fine or has received a judicial admonition;
 - 4.4. one of the alternative punishments is imposed, with exception of the punishment of semi-liberty under Article 61 of the Criminal Code;
 - 4.5. due to the inclusion of detention on remand in the amount of punishment he or she has already served the sentence; or
 - 4.6. the charge is rejected, except in a case in which it is rejected on grounds of lack of competence of the court.
5. Before ordering or terminating detention on remand under paragraphs 3 or 4 of the present Article, the single trial judge or trial panel shall first hear the opinion of the state prosecutor, if the proceedings were initiated upon his or her request, and either the accused or his or her defence counsel.
6. If the accused is in detention on remand and the single trial judge or trial panel finds that the grounds on which detention on remand was ordered still exist, it shall extend detention on remand under a separate ruling. It shall also render a separate

ruling when detention on remand is to be ordered or cancelled. An appeal against this ruling shall not stay execution.

7. Detention on remand ordered or extended under the provisions of paragraphs 3 or 6 of the present Article may last until the judgment becomes final, but no longer than the expiry of the term of punishment imposed in the judgment of the basic court.
8. An accused in detention on remand who has been punished by imprisonment may upon his or her request be transferred to a penal institution under a ruling of the single trial judge or presiding trial judge even before the judgment has become final.

Article 368

Instructions and Warnings Accompanying Judgment

1. After announcing the judgment, the single trial judge or presiding trial judge shall instruct the parties of their right to appeal. The instruction shall be entered into the record of the proceedings of the main trial.
2. Where an alternative punishment listed under the Article 49 of the Criminal Code has been imposed, the single trial judge or presiding trial judge shall warn the accused of the meaning of the punishment and the conditions by which he or she is bound to abide.
3. The single trial judge or presiding trial judge shall remind the parties of their obligation to report to the court any change in address until the final conclusion of proceedings.

4. Drawing up and Serving of Judgments

Article 369

Timing and Service of Written Judgment

1. The judgment shall be drawn up in writing within fifteen (15) days of its announcement, if the accused is in detention on remand or if detention on remand has been imposed on him/her, while in all other cases it is drawn within thirty (30) days of its announcement. When a case is complex, the single trial judge or presiding trial judge may ask the president of the court to extend the deadline by up to sixty (60) more days for the judgment to be drawn up.
2. The judgment shall be signed by the single trial judge or presiding trial judge and the recording clerk.
3. A certified copy of the judgment containing an instruction on the right to appeal shall be served on the parties.
4. A certified copy of the judgment with an instruction on the right to appeal shall be served on the injured party, on a person from whom an object is confiscated under the judgment and on a legal person upon which the confiscation of the material benefit acquired by the commission of a criminal offence has been imposed.
5. Where, under the provisions on a single punishment for concurrent criminal offences, the court has rendered a judgment taking into account judgments

rendered by other courts, certified copies of the final judgment shall be sent to the courts concerned.

Article 370 **Content and Form of Written Judgment**

1. The judgment drawn up in writing shall be fully consistent with the judgment as it was announced. It shall have an introduction, the enacting clause and a statement of grounds.
2. The introduction shall include: an indication that the judgment is rendered in the name of the people; the name of the court; the first name and surname of the single trial judge or presiding trial judge, members of the trial panel and the recording clerk; the first name and surname of the accused; the criminal offence of which the accused was convicted and an indication as to whether he or she was present at the main trial; the day of the main trial; whether the main trial was public; the first name and surname of the state prosecutor, counsel, legal representative and authorized representative present at the main trial; the day of the announcement of the judgment that has been rendered; and the date when the judgment was drawn up.
3. The enacting clause of the judgment shall include the personal data of the accused and the decision by which the accused is pronounced guilty of the act of which he or she is accused or by which he or she is acquitted of the charge for that act or by which the charge is rejected.
4. If the accused has been convicted, the enacting clause of the judgment shall contain the necessary data specified in Article 365 of the present Code, and if he or she was acquitted or the charge was rejected, the enacting clause shall contain a description of the act with which he or she was charged and the decision concerning the costs of criminal proceedings and the property claim if such claim was filed.
5. In the event of concurrent criminal offences the court shall indicate in the enacting clause, the punishment determined for each separate offence, whereupon it shall indicate the aggregate punishment.
6. In the statement of grounds for a judgment, the court shall present the grounds for each individual point of the judgment.
7. The court shall state clearly and exhaustively which facts it considers proven or not proven, as well as the grounds for this. The court shall also, in particular, make an evaluation of the credibility of conflicting evidence, the grounds for not approving individual motions of the parties, and the reasons by which the court was guided in settling points of law and, in particular, in establishing the existence of a criminal offence and the criminal liability of the accused, as well as in applying specific provisions of criminal law to the accused and his or her act.
8. If the accused has been sentenced to a punishment, the statement of grounds shall indicate the circumstances the court considered in determining the punishment. The court shall, in particular, explain by which grounds it was guided if it found that it was an especially serious case or that it is necessary to impose a sentence which is more severe than what has been prescribed, or if it found that it was

necessary to reduce the sentence or to waive the sentence, or to impose an alternative punishment or to impose a measure of mandatory rehabilitation treatment or confiscation of the material benefit acquired by the commission of a criminal offence.

9. If the indictment lists assets subject to forfeiture, the judgment shall indicate whether the assets shall be forfeited or not. The judgment shall provide reasoning for the forfeiture of each asset that is ordered to be forfeited, and the judgment shall provide reasoning for each asset which is not being ordered to be forfeited.
10. If the accused is acquitted of a charge, the statement of grounds shall state, in particular, on which of the reasons provided for in Article 364 of the present Code it is acting.
11. In the statement of grounds for a judgment rejecting a charge, the court shall not evaluate the principal matter but shall confine itself only to the reasons for the rejection of the charge.

Article 371

De Minimus Errors in Judgment

1. Errors in names and numbers, other obvious writing and computing errors, deficiencies regarding the form of the written judgment and discrepancies between the judgment drawn up in writing and its original shall be corrected under a separate ruling of the single trial judge or presiding trial judge, on the motion of the parties, defence counsel or *ex officio*.
2. If de minimus or harmless errors in the judgment are the subject of an appeal, the court of appeals may correct the judgment under Article 403 of the present Code.
3. If the judgment as drawn up in writing and its original differ with respect to the data provided for in Article 365 paragraph 1 subparagraphs 1.1 through 1.4 and subparagraph 1.6 of the present Code, the ruling on corrections shall be served on persons referred to in Article 369 of the present Code. In such case, the prescribed period of time for filing an appeal against the judgment shall run from the day of service of such ruling. No separate appeal may be permitted against this ruling.

Article 372

Execution of Penal Sanctions

1. If the court decides on extension or imposition of detention on remand following the announcement of judgment and the accused agrees with it, or when the court imposes a punishment based on provisions of Article 369 paragraph 5 of the present Code, it shall be deemed that the accused is serving the sentence pursuant to provisions of the Law on Execution of Penal Sanctions.
2. If the judgment includes a penal sanction with a punishment from Article 367, paragraph 2 or 3 or in the final, written judgment under Article 369 paragraph 5 of the present Code, but the accused has left Kosovo or is evading service, the single trial judge or presiding trial judge shall issue an order for the arrest of the accused in compliance with Article 175 of the present Code.

Article 373

Judgment against Legal Persons and Execution of Judgment

Investors, shareholders or lenders to a legal person shall not have standing to object to judgments and its execution against a legal person, unless that person is the representative of the defendant legal person under Article 20 of the Law on Liability of Legal Persons for Criminal Offences, Law No. 04/L-030 or successor law.

CHAPTER XXI LEGAL REMEDIES

1. Legal Remedies

Article 374

Types of Legal Remedies

1. Unless otherwise provided for under the present code, a party may seek legal remedies from a court of higher instance through:
 - 1.1. an appeal against the judgment of the Basic Court to the Court of Appeals.
 - 1.2. an appeal against the judgment of the Court of Appeals to the Supreme Court of Kosovo under Article 407 paragraph 1 of the present Code or where the judgment has imposed a sentence of life-long imprisonment.
 - 1.3. an appeal against a decision of the Basic Court to the Court of Appeals.
 - 1.4. an application for extraordinary legal remedies from the Basic Court or Court of Appeals to the Supreme Court of Kosovo.
2. An order of a pretrial judge may be reviewed by a panel comprised of three (3) basic court judges if authorized under the present code. An order reviewed by a review panel under this paragraph is reviewable by the Court of Appeals or Supreme Court only during an appeal against the judgment of the Basic Court.

2. General Rules of Appellate procedure

Article 375

Fairness in Legal Remedies

1. No party shall be permitted to have ex parte communication with the review panel, court of appeals or the Supreme Court regarding an objection or request for legal remedy that is pending before the review panel, court of appeals or the Supreme Court, or which the party intends to file before the review panel, court of appeals or the Supreme Court.
2. No judge of the review panel, court of appeals or Supreme Court shall engage in an ex parte communication with a party regarding an objection or request for legal remedy to which the party has an interest which is pending before the court of appeals or the Supreme Court, or which the party intends to file before the review panel, court of appeals or the Supreme Court.
3. The judge with whom the party attempts to have ex parte communications in

violation of paragraph 1 or 2 of this Article shall immediately refuse the communications and shall inform the other parties of the attempted ex parte communication.

Article 376
Form of Objections or Request for Legal Remedy

1. As a general rule, objections or requests for legal remedy must contain:
 - 1.1. the file number of the case;
 - 1.2. the name of the defendant;
 - 1.3. a description of the legal status of the case, including whether the objection or request was filed within the period of time allowed;
 - 1.4. a description of the relevant facts contained in the record;
 - 1.5. a description of the legal basis for the objection or request;
 - 1.6. a description of the remedy being requested;
 - 1.7. a description of the legal basis for the remedy;
 - 1.8. if the objection or request is on behalf of the defendant, a statement that the defendant consents to the request,
2. The objection or request must clearly identify the information which complies with paragraph 1 of the present Article.
3. The objection or request shall be filed with the basic court, which shall serve the objection or request upon the opposing party.
4. No objection or request shall be considered which does not comply with this Article.

Article 377
Form of Reply to Objection or Request for Legal Remedy

1. A reply to an objection or request for legal remedy must contain:
 - 1.1. the file number of the case;
 - 1.2. the name of the defendant;
 - 1.3. a description of the legal status of the case, including whether the reply was filed within the period of time allowed;
 - 1.4. a description of the relevant facts contained in the record;
 - 1.5. arguments against the legal basis for the objection or request claimed by the requesting party;
 - 1.6. arguments against the remedy being requested by the requesting party;
 - 1.7. arguments against the legal basis for the remedy requested by the requesting party;
2. The reply to the objection or request must clearly identify the information which complies with paragraph 1 of the present Article.
3. The reply to the objection or request shall be filed with the basic court, which shall serve the reply upon the opposing party.
4. No reply to the objection or request shall be considered which does not comply with this Article.

Article 378

Timing of Objection, Request for Legal Remedy and Reply

1. The objection being adjudicated by the review panel must be filed within forty-eight (48) hours, unless otherwise specified under the law.
2. The request being adjudicated by the court of appeals must be filed within five (5) days of the final judgment or decision, unless otherwise specified under the law.
3. The request being adjudicated by the Supreme Court of Kosovo must be filed within ten (10) days, unless otherwise specified under the law
4. The reply to the objection must be filed within twenty-four (24) hours of an objection which is being adjudicated by the review panel.
5. The reply to the request must be filed within five (5) days of a request which is being adjudicated by the court of appeals.
6. The reply to the request must be filed within ten (10) days of a request which is being adjudicated by the Supreme Court of Kosovo.

Article 379

All Objections, Requests for Legal Remedy and Replies Shall Comply

No opinion, objection, request for legal remedy or reply shall be considered by a judge of the basic court, review panel, court of appeals or Supreme Court of Kosovo that does not comply with Articles 375 to 378 of the present Code.

3. Appeals against Judgment

Article 380

Filing Appeals against Judgment

1. Authorized persons may file an appeal against a judgment rendered by the single trial judge or trial panel of the Basic Court within fifteen (15) days of the day the copy of the judgment has been served.
2. An appeal filed in due time by an authorized person shall stay the execution of the judgment.

Article 381

Persons authorized to file appeals against judgment

1. An appeal may be filed by the state prosecutor, the defence counsel, the accused, the legal representative of the accused and the injured party.
2. The state prosecutor may file an appeal either to the detriment or to the benefit of the accused.
3. An injured party may challenge a judgment only with respect to the court's decision on the punitive sanctions for criminal offences committed against life or body, against sexual integrity or against the security of public traffic and on the costs of criminal proceedings.
4. An appeal may also be filed by a person whose property has been confiscated by a

person from whom the material benefit acquired by the commission of a criminal offence has been confiscated, and by a legal person from whom the material benefit has been confiscated.

Article 382

Content of the Appeal against Judgment

1. The appeal against judgment shall comply with Article 376 of the present Code, but shall additionally include:
 - 1.1. an indication of the judgment against which the appeal is filed;
 - 1.2. the grounds for challenging the judgment under Article 383 of the present Code;
 - 1.3. a motion to reverse the challenged judgment in whole or in part, or to modify it; and
 - 1.4. the signature of the appellant.
2. If an appeal is filed by an accused or an injured party who are not represented by counsel, and the appeal is not drawn up in accordance with the provisions of paragraph 1 of the present Article, the single trial judge or presiding trial judge shall request the appellant to supplement it within a certain prescribed period of time by a written submission. If the appellant does not comply with the request and the appeal does not contain information under Article 376 of the present Code or paragraph 1 of the present Article, the single trial judge or presiding trial judge shall dismiss it if the information cannot be readily discovered.
3. New evidence and facts may be presented in the appeal but the appellant shall be bound to give reasons for failing to present them before. In referring to new facts the appellant shall indicate the evidence by which these facts may be proven, and in referring to new evidence he or she shall indicate the facts which he or she intends to prove by that evidence.
4. If the appellant asserts grounds for appeal but did not raise those grounds with the basic court during the initial hearing, second hearing or main trial, the appellant may not raise those grounds unless he or she can assert an extraordinary reason or new evidence or facts under paragraph 3 of the present Article.

Article 383

Grounds for exercising an appeal against the judgment

1. A judgment may be challenged:
 - 1.1. on the ground of a substantial violation of the provisions of criminal procedure;
 - 1.2. on the ground of a violation of the criminal law;
 - 1.3. on the ground of an erroneous or incomplete determination of the factual situation; or
 - 1.4. on account of a decision on criminal sanctions, confiscation of the material benefit acquired by the commission of a criminal offence, costs of criminal proceedings, property claims as well as on account of an order to publish a judgment.

2. A judgment cannot be challenged on the ground of an erroneous or incomplete determination of the factual situation when there is a plea agreement or when the accused has pleaded guilty to all counts of the indictment and the trial panel has accepted such plea.

Article 384

Substantial Violation of the Provisions of Criminal Procedure

1. There is a substantial violation of the provisions of criminal procedure if:
 - 1.1. the court was not properly constituted or the participants in the rendering of the judgment included a judge who did not attend the main trial or was excluded from adjudication under a final decision;
 - 1.2. a judge who should be excluded from participation in the main trial participated therein;
 - 1.3. the main trial was conducted in the absence of persons whose presence at the main trial is required by law or the accused or defence counsel was, notwithstanding his or her request, denied the right to use his or her own language in the main trial and to follow the course of the main trial in his or her language;
 - 1.4. the public was excluded from the main trial in violation of the law;
 - 1.5. the court violated the provisions of the criminal procedure relating to the issue of whether there exists a charge by an authorized state prosecutor, a motion of the injured party or the approval of the competent public entity;
 - 1.6. the judgment was rendered by a court which lacked subject matter jurisdiction to hear the case;
 - 1.7. the court in its judgment did not fully adjudicate the substance of the charge;
 - 1.8. the judgment was based on inadmissible evidence;
 - 1.9. the accused, when asked to enter his or her plea, pleaded not guilty on all or certain counts of the charge and was examined before the presentation of evidence was completed;
 - 1.10. the judgment exceeded the scope of the charge;
 - 1.11. the judgment was rendered in violation of Article 395 of the present Code;
or
 - 1.12. the judgment was not drawn up in accordance with Article 370 of the present Code.
2. Substantial violation of provisions of criminal procedure shall be considered if during the course of criminal proceedings, including pretrial proceedings, the court, the state prosecutor or the police:
 - 2.1. omitted to apply a provision of the present Code or applied it incorrectly; or
 - 2.2. violated the rights of the defense; and this influenced or might have influenced the rendering of a lawful and fair judgment.

Article 385

Violation of the Criminal Law

1. There is a violation of the criminal law:

Criminal laws

- 1.1. the act for which the accused is prosecuted is not a criminal offence;
- 1.2. circumstances exist which preclude criminal liability;
- 1.3. circumstances exist which preclude criminal prosecution and, in particular, whether criminal prosecution is prohibited by the period of statutory limitation or precluded due to an amnesty or pardon, or prior adjudication by a final judgment;
- 1.4. an inapplicable law was applied to the criminal offence which is the subject-matter of the charge;
- 1.5. in rendering a decision on punishment, alternative punishment or judicial admonition, or in ordering a measure of mandatory rehabilitation treatment or the confiscation of material benefit acquired by the commission of a criminal offence, the court exceeded its authority under the law; or
- 1.6. provisions were violated in respect of crediting the period of detention on remand and an earlier served sentence.

Article 386

Erroneous or Incomplete Determination of the Factual Situation

1. A judgment may be challenged on grounds of an erroneous or incomplete determination of the factual situation.
2. There is an erroneous determination of the factual situation when the court determines a material fact incorrectly or when the contents of documents, records on evidence examined or technical recordings seriously undermine the correctness or reliability of the determination of a material fact.
3. There is an incomplete determination of the factual situation if the court fails to establish a material fact.

Article 387

Appeal against the judgment related to the decision on criminal sanction and other decisions

1. A judgment may be challenged in respect of a decision on a punishment or a judicial admonition on the grounds that the court, while not exceeding its authority under the law, has nevertheless failed to determine the punishment or judicial admonition correctly, having regard to all the relevant.
2. The judgment may also be challenged on the grounds that the court has applied or failed to apply the provisions on the mitigation or waiver of punishment or on judicial admonition.
3. A decision on a measure of mandatory rehabilitation treatment of persons addicted to drugs or alcohol or on confiscation of the material benefit acquired by the commission of a criminal offence may be challenged on the grounds that the court, while not violating Article 385 subparagraph 1.5 of the present Code, has nevertheless rendered that decision incorrectly, or failed to impose the measure of mandatory rehabilitation treatment of persons addicted to drugs or alcohol or the measure of confiscation of the material benefit acquired by the commission of a criminal offence even though there were legal grounds for this.

4. A decision on the costs of criminal proceedings may be challenged if the court has determined these costs incorrectly or in violation of the provisions of the present Code.
5. A decision on a property claim or a decision on an order to publish a judgment may be challenged if the court has decided these issues in violation of the provisions of the law.

Article 388

Procedure of Filing Appeals of Judgments

1. The appeal against judgment shall be filed with the court which rendered it.
2. This court shall serve a copy of the appeal on the opposing sides, which may file a reply to the appeal within eight (8) days of service.
3. This court shall transmit the appeal, the reply, and related files to the court competent to hear the appeal.
4. Any appeal or request under this Article shall be filed with a sufficient number of copies for the court and for the opposing sides.

Article 389

Procedure related to the appeal against a judgment at the Court of Appeals

1. The Court of Appeals shall, upon receiving the files with the appeal, give the files to the presiding judge assigned in accordance with the court calendar.
2. The presiding judge of the appellate panel shall schedule the session of the panel.
3. If the case is returned, the state prosecutor may file a proposal or declare that he/she will file it at the appellate panel session.
4. The reporting judge may, when necessary, secure a report on violations of provisions of criminal procedure from the Basic Court, and he or she may also verify through that court, or in some other way, the allegations in the appeal relating to new evidence and new facts or he or she may secure the necessary reports or documents from other agencies or legal persons.
5. If the Accused is in detention on remand, the reporting judge shall examine *ex officio* whether reasons for detention on remand still exists within five (5) days upon receiving the case file.

Article 390

Session before Appeal Panel

1. When an imprisonment sentence was imposed on the accused, the notification of the session of the appeal panel shall be sent to the state prosecutor, to injured party, and to the accused and his/her defense counsel.
2. If an accused held in detention on remand or serving his or her sentence wishes to attend the session he or she shall be allowed to do so.
3. The session of the panel shall open with the report of the reporting judge on the facts. The panel may ask the parties and the defence counsel who are present at the session to provide necessary explanations concerning allegations in the appeal. The

parties and the defence counsel may make motions that certain files be read as a supplement to the report and may provide the necessary explanations of their positions as contained in the appeal or in the reply to the appeal, without repeating the contents of the report.

4. If parties who were duly notified of the session fail to appear, the panel shall nevertheless hold the session. If the accused failed to report a change in address or current residence, the panel may hold the session even though the accused has not been advised thereof.
5. The public may be excluded from the session of the panel held in the presence of the parties only under conditions provided for by the present Code.
6. The record of the session shall be enclosed with the court file.
7. Rulings under Articles 399 and 400 of the present Code may be rendered without informing the parties about the session of the panel.

Article 391

Decisions of Appeals Panel Made in Session or in Hearing

1. The court of appeals shall take its decision in a session of the panel or in a hearing.
2. The court of appeals shall decide in a session of the panel whether to conduct a hearing.

Article 392

Grounds for holding a session at the Court of Appeals

1. A hearing before the court of appeals shall be conducted only when it is necessary to take new evidence or to repeat evidence already taken due to an erroneous or incomplete determination of the factual situation, and when there are valid grounds for not returning the case to the Basic Court for retrial.
2. A summons to appear at the hearing before the court of appeals shall be served on the accused and his or her defence counsel, the state prosecutor, the injured party, legal representatives and authorized representatives of the injured party, and those witnesses and expert witnesses whom the court decides to hear pursuant to the motion of the parties or *ex officio*.
3. If the accused is in detention on remand or is serving his or her sentence, the presiding judge of the Court of Appeals shall take the necessary steps for the accused to be brought to the hearing.

Article 393

Hearing before Appeal Panel

1. The hearing before the Court of Appeals shall start with the report of the reporting judge who shall present the factual situation without giving his or her opinion on whether the appeal is well-founded.
2. The judgment or the part of judgment to which the appeal relates, and, if necessary, also the record of the main trial, shall be read upon a motion or *ex officio*.

3. After that the appellant shall be called to set out his or her appeal and the opposing party to give his or her reply. The accused and his or her defence counsel shall always have the last word.
4. The parties may present new evidence and new facts during the hearing.
5. The state prosecutor may, having regard to the outcome of the hearing, withdraw the indictment completely or a part thereof or he or she may amend it in favour of the accused.

Article 394

Scope of appeal review by the Court of Appeals

1. The Court of Appeals shall examine the part of the judgment which is challenged by the appeal. In addition, when an appeal is filed, the court shall examine *ex officio*:
 - 1.1. whether there exists a violation of the provisions of criminal procedure under Article 384 paragraph 1 subparagraphs 1.1, 1.2, 1.6 and 1.8 through 1.12 of the present Code;
 - 1.2. whether the main trial was, contrary to the provisions of the present Code, conducted in the absence of the accused;
 - 1.3. whether in a case of mandatory defence the main trial was conducted in the absence of defence counsel; and
 - 1.4. whether the criminal law was violated to the detriment of the accused.
2. If an appeal filed in favour of the accused does not contain the information under Article 382 paragraph 1 subparagraphs 1.2 or 1.3 of the present Code, the Court of Appeals shall confine itself to inquiring into violations under paragraph 1 subparagraphs 1.1 through 1.4 of the present Article and to examining the decision on punishment, mandatory rehabilitation treatment and the confiscation of the material benefit acquired by the commission of a criminal offence.

Article 395

The Restriction *Reformatio in Peius*

Where only an appeal in favour of the accused has been filed, the judgment may not be modified to the detriment of the accused with respect to the legal classification of the offence and the criminal sanction imposed.

Article 396

Additional Effect of the Appeal Based on the Erroneous and Incomplete Determination or Violation of Criminal Law

An appeal filed in favour of the accused on the ground of an erroneous and incomplete determination of the factual situation or on the ground of a violation of criminal law shall include an appeal against the decision on punishment, mandatory rehabilitation treatment and confiscation of the material benefit acquired by the commission of a criminal offence.

Article 397
Beneficium Cohaesionis

If upon an appeal the Court of Appeals finds that the reasons which governed its decision in favour of the accused, and which are not of a purely personal nature, are also to the advantage of a co-accused who has not filed an appeal or has not filed an appeal along the same lines, the court shall proceed *ex officio* as if such appeal was also filed by the co-accused.

Article 398
Decision of the Court of Appeals on the appeal against basic court judgment

1. The Court of Appeals may in a session of the panel or on the basis of a hearing:
 - 1.1. dismiss an appeal as belated or inadmissible;
 - 1.2. reject an appeal as unfounded and affirm the judgment of the Basic Court;
 - 1.3. annul the judgment and return the case to the Basic Court for retrial and decision; or
 - 1.4. modify the judgment of the Basic Court.
2. The Court of Appeals may direct the Basic Court to assign, based on an objective and transparent case allocation system, a new single trial judge, presiding trial judge or trial panel if the Court of Appeals determines that the assigned single trial judge, presiding trial judge or trial panel has consistently failed to apply the law correctly, grossly mischaracterized evidence or the failure to reassign the judge or panel would result in a miscarriage of justice or conflict of interest.
3. The Court of Appeals shall determine all appeals of the same judgment by a single decision.
4. A decision of the Court of Appeals shall be signed by all the judges in the panel, except for a decision issued under Article 399 or 400 of the present Code. A member of the panel may submit a dissenting or concurring opinion on legal or factual questions regarding the appeal and such opinion will be attached to the main decision.

Article 399
Dismissal of Late Appeals

The Court of Appeals shall dismiss an appeal as belated by a ruling if it establishes that it was filed after the expiry of the period of time prescribed by law.

Article 400
Dismissal of Impermissible Appeal

The Court of Appeals shall dismiss an appeal as not permitted by a ruling if it is established that it was filed by a person not entitled to file an appeal or by a person who has renounced the appeal, or if withdrawal from the appeal is established or if it is established that after withdrawal the appeal was filed again or if the appeal was not permitted under the law.

Article 401

Rejection of Unfounded Appeals and Affirmation of Judgment of Basic Court

The Court of Appeals shall reject by a judgment an appeal as unfounded and affirm the judgment of the Basic Court if it establishes that there are no grounds to challenge the judgment and no violations of the law under Article 394 paragraph 1 of the present Code.

Article 402

Annulment of Judgment of Basic Court

1. The Court of Appeals shall, in certain cases, annul by a ruling the judgment of the Basic Court and return the case for retrial, if:
 - 1.1. there exists a substantial violation of provisions of criminal procedure, and the Court of Appeals can not proceed under Article 403 of the present Code;
or
 - 1.2. a new main trial before the Basic Court is necessary because of an erroneous or incomplete determination of the factual situation and the Court of Appeals cannot proceed under Article 403 of the present Code.
2. The Court of Appeals shall annul by a ruling the judgment of the Basic Court and reject the indictment, if it is established that the circumstances under Article 358 paragraph 1 of the present Code apply. The Court of Appeals shall proceed in the same way if it finds that the Basic Court lacked subject matter jurisdiction to adjudicate the case, except where the appeal was filed only in favour of the accused.
3. The Court of Appeals may annul the judgment of the Basic Court partially if particular parts of the judgment can be addressed separately without prejudice to a correct adjudication.
4. If the Accused is in detention on remand, the Court of Appeals shall examine whether there are still grounds for detention on remand and shall extend or terminate detention on remand by a ruling. No appeal shall be permitted against this ruling.

Article 403

Modification of Judgment of Basic Court

1. The Court of Appeals shall modify by a judgment the judgment of the Basic Court if it determines that the Basic Court had made erroneous or incomplete determination of facts, and for this purpose:
 - 1.1. upon the request of the parties or acting *ex officio*, may hold a hearing to take new evidence or to repeat evidence in order to properly determine and assess the material facts; or
 - 1.2. may properly determine and assess the material facts without a hearing, if there is no need to take new evidence or to repeat new evidence.
2. If the Court of Appeals finds that there are legal grounds for a judicial admonition, it shall modify the judgment of the Basic Court by a judgment and render a judicial admonition.

3. Where due to a modification of the judgment of the Basic Court there are grounds for ordering or cancelling detention on remand, the Court of Appeals shall render a separate ruling thereon. No appeal against this ruling shall be permitted.

Article 404

Reasoning of Appeals Court decisions

1. In the statement of grounds for its judgment or ruling the Court of Appeals shall assess the contentions which are the subject of the appeal and indicate the violations of law which it has recognized *ex officio*.
2. If the judgment of the Basic Court is annulled on grounds of a substantial violation of provisions of criminal procedure the statement of grounds shall contain an indication of the provisions which were violated and the nature of the violation in accordance with Article 384 of the present Code.
3. If the judgment of the Basic Court is annulled on grounds of an erroneous or incomplete determination of the factual situation, the statement of grounds shall indicate what the deficiencies in the factual determination are, or why new evidence and new facts are important for reaching a correct decision and why they influence that decision.

Article 405

Decisions Returned to Basic Court for Service

1. The Court of Appeals shall return all files to the Basic Court together with a sufficient number of certified copies of its decision to be served on the parties and other persons concerned.
2. If the accused is in detention on remand, the Court of Appeals shall send its decision and the files to the Basic Court no later than three (3) months from the day it has received the files from the court below.

Article 406

Retrial proceedings at the Basic Court based on a ruling of the Court of Appeals

1. The Basic Court to which a matter has been referred for adjudication shall proceed on the basis of the prior indictment. If the judgment of the Basic Court has been partly annulled the court shall take as its basis only that part of the indictment which refers to the annulled part of the judgment.
2. The parties shall be entitled to introduce new facts and present new evidence at the new main trial.
3. The Basic Court shall undertake all procedural actions and examine all contentious points indicated in the decision of the Court of Appeals.
4. In rendering a new judgment, the Basic Court shall be bound by the prohibition provided for by Article 395 of the present Code.
5. If the accused is in detention on remand the panel of the Basic Court shall proceed as provided for in Article 193 paragraph 2 of the present Code.

Article 407

Appeal against Judgment from Court of Appeals to Supreme Court

1. An appeal against a judgment of a Court of Appeals may be filed with the Supreme Court of Kosovo if the Court of Appeals has modified a judgment of acquittal by the Basic Court and rendered instead a judgment of conviction or when the judgment by the Basic Court or Court of Appeals has imposed a sentence of life-long imprisonment.
2. Articles 389 to 406 of the present Code shall apply mutatis mutandis to the procedure of appeal before the Supreme Court.
3. A judgment of the Supreme Court shall be signed by all judges on the panel. A member of the panel may submit a dissenting or concurring opinion on legal or factual questions regarding the appeal and such opinion will be attached to the judgment.

4. Appeal against Rulings

Article 408

Types of Rulings that can be Appealed

1. An appeal against a ruling or order of a pre-trial judge and against other rulings rendered in the Basic Court may be filed by the parties and persons whose rights have been violated in accordance with Article 411 of the present Code, unless an appeal is explicitly prohibited by the provisions of the present Code.
2. No appeal shall be permitted against a ruling rendered by the review panel of three (3) judges in the pre-trial stage of the proceedings, unless otherwise provided for by the present Code.
3. A ruling rendered in connection with the preparation of the main trial and judgment may only be challenged in an appeal against the judgment, unless otherwise provided for by the present Code.
4. No appeal shall be permitted against a ruling rendered by the Supreme Court of Kosovo.

Article 409

Deadline for appealing the ruling

1. An appeal shall be filed with the court which has rendered the ruling.
2. Unless otherwise provided for by the present Code, an appeal against a ruling shall be filed within three (3) days of the service of the ruling.

Article 410

Suspending effect of the appeal against the ruling

Unless otherwise provided for by the present Code, the filing of an appeal shall stay the execution of the ruling being challenged.

Article 411
Procedure of Filing Appeals against the ruling

1. An authorized party seeking an appeal shall comply with this Chapter.
2. An appeal that does not comply with this Chapter may be summarily dismissed by the Court of Appeals after ensuring that it does not raise an important issue of constitutionally protected rights.
3. An appeal to a decision of the Basic Court shall be filed by the appellant with the Basic Court.
4. The Basic Court shall serve a copy of the appeal on the opposing sides.
5. The Basic Court shall transmit the appeal, the reply and the related files to the Court of Appeals.
6. An appeal on the ruling of the Court of Appeals shall be filed by an authorized party with the Court of Appeals.
7. The Court of Appeals shall serve a copy of the appeal on the opposing sides.
8. The Court of Appeals shall transmit the appeal, the reply and the related files to the Supreme Court.
9. An appeal filed under paragraph 6 of the present Article that does not comply with this Chapter may be summarily dismissed by the Supreme Court after ensuring that it does not raise an important issue of constitutionally protected rights.
10. In instances under paragraph 2 or paragraph 9 of the present Article where an appeal raises an important issue of constitutionally protected rights, but does not comply with this Chapter, the appellant shall be given the opportunity to correct the appeal.
11. Any appeal or request under this Article shall be filed with a sufficient number of copies for the court and for the opposing sides.

Article 412
The Procedure on the appeal against the ruling of the Court of Appeals

1. The Court of Appeals shall, upon receiving the files with the appeal, shall send the files to the competent state prosecutor within the Appellate Prosecution Office who shall examine and return them to the court without delay.
2. The state prosecutor may file his or her motion in returning the files, or may declare that he or she will file it during the session of the appellate panel.
3. After the state prosecutor has returned the files, the presiding judge of the appellate panel shall schedule the session of the panel.

Article 413
Rulings of Appeals Panel based on Filings or Made in Session

1. The Court of Appeals shall take its ruling based on the appeal and motions filed or in a session of the panel.
2. The Court of Appeals shall make a ruling based on the appeal and motions filed only:
 - 2.1. when there is no disputed legal or factual dispute, or

- 2.2. when the panel determines that a ruling is so clear that a session is unnecessary.
3. A ruling by a panel of the Court of Appeals in compliance with paragraph 2 of the present Article shall include reasoning that supports the ruling under paragraph 2 of the present Article.

Article 414
Session before Appeal Panel

1. When the Court of Appeals receives an appeal against the ruling, the panel may decide to hold a session and it shall notify: the competent state prosecutor, the injured parties, and the accused and his/her defense councils.
2. If an accused held in detention on remand or serving his or her sentence wishes to attend the session he or she shall be allowed to do so.
3. The panel may ask the parties and the defence counsel who are present at the session to provide necessary explanations concerning allegations in the appeal. The parties and the defence counsel may provide the necessary explanations of their positions as contained in the appeal or in the reply to the appeal.
4. If parties who were duly summoned to the session fail to appear, the panel shall nevertheless hold the session. If the accused failed to report a change in address or current residence, the panel may hold the session even though the accused has not been advised thereof.
5. The public may be excluded from the session of the panel held in the presence of the parties only under conditions provided for by the present Code.
6. The record of the session shall be enclosed with the court file.
7. Rulings under Articles 399 and 400 of the present Code may be rendered without informing the parties about the session of the panel.

Article 415
Basis of Appeal on Ruling

1. A ruling by the pretrial judge, single trial judge, presiding trial judge or trial panel may be appealed when that ruling violates:
 - 1.1. a right provided to the party under the Constitution of the Republic of Kosovo,
 - 1.2. a substantive right provided to the party under the present Code,
 - 1.3. a substantive right provided to the party under another law of Kosovo,
 - 1.4. a procedural right meant to guarantee a right under subparagraphs 1.1 to 1.3 of the present Article.
2. The party appealing the ruling by the Basic Court must demonstrate that the violation of the right causes an irreparable harm to the party.
3. If the basis of an appeal does not comply with paragraphs 1 and 2 of the present Article, the Court of Appeals may dismiss the appeal. An appeal subject to dismissal under this paragraph may be reasserted on an appeal against judgment under Article 380 of the present Code.

Article 416
Decisions on Appeals against Rulings

1. An appeal against a ruling of the Basic Court shall be decided by the Court of Appeals in a session of the panel, unless otherwise provided for by the present Code.
2. In deciding on an appeal the court may dismiss by a ruling the appeal as belated or inadmissible, reject it as unfounded or accept it and modify the ruling, or annul it and return it for reconsideration where necessary.
3. In deciding on an appeal against a ruling by which the indictment is dismissed, the court may reject the appeal by a judgment if it finds that there are grounds for such judgment.
4. In examining an appeal, the court shall inquire *ex officio* into whether the Basic Court had the subject matter jurisdiction to render the ruling and whether the ruling was rendered by the authority empowered to render it.

Article 417
Review by Review Panel of Basic Court

1. An objection against an order of the pre-trial judge shall be decided by the review panel of the same court if provided for by the present Code.
2. The president of the Basic Court shall appoint a review panel of three (3) judges. The three (3) judges shall be competent to review the objection. The pre-trial judge or any judge participating in a special investigative opportunity shall not be permitted to participate on the review panel.
3. Unless otherwise determined under the present Code, the review panel shall review the objection from the parties within three (3) days of the filing of the appeal.
4. Unless otherwise determined under the present Code, the review panel shall issue a ruling on the appeal from the parties within one (1) week of the filing of the objection.
5. Unless otherwise determined under the present Code, a ruling on the objection by the review panel shall be reviewed by the Court of Appeals only upon an appeal of the judgment of the Basic Court.

5. Extraordinary Legal Remedies

Article 418
Extraordinary Legal Remedies

1. A party may request the reopening of criminal proceedings within two (2) years of the final judgment or final ruling that terminated the criminal proceedings. The party shall file the request with the Basic Court where the final judgment was issued, which shall transmit all validated requests to the Supreme Court.
2. A party may request the extraordinary mitigation of punishment at any time during the period being served in imprisonment, but during the last six (6) months of imprisonment. The party shall file the request with the Basic Court where the final

judgment was issued, which shall transmit all validated requests to the Supreme Court.

3. A party may request protection of legality within three (3) months of the final judgment or final ruling against which protection of legality is sought. The party shall file the request with the Basic Court where the final judgment was issued, which shall transmit all validated requests to the Supreme Court.
4. Articles 375, 376, 377, 378 and 379 of the present Code shall apply to all requests made under this Article.

A. Reopening of Criminal Proceedings

Article 419

General provisions

Criminal proceedings terminated by a final ruling or a final judgment may be reopened upon the request of authorized persons only in instances and under conditions provided for by the present Code.

Article 420

Modification of a final judgment without reopening criminal proceedings

1. A final judgment may be modified even without reopening criminal proceedings:
 - 1.1. when, in two or more judgments against the same convicted person, several punishments were imposed in a final form without applying the provisions on imposing an aggregate punishment for concurrent criminal offences;
 - 1.2. when, in imposing an aggregate punishment by the application of provisions on concurrent criminal offences, a punishment already included in a punishment imposed under an earlier judgment in accordance with provisions on concurrent criminal offences was also taken into consideration; or
 - 1.3. when a final judgment in which an aggregate punishment was imposed for several criminal offences is partly unenforceable due to an amnesty, pardon or other reasons.
2. In a case under paragraph 1 subparagraph 1.1 of the present Article, the court shall modify by a new judgment the earlier judgments in respect of the punishments imposed therein and shall impose an aggregate punishment. The rendering of a new judgment shall fall within the jurisdiction of the Basic Court which adjudicated the matter in which the most severe type of punishment was imposed. Where punishments of the same type were imposed, the new judgment shall be rendered by the court in which the most severe punishment was imposed, and where the punishments are equal it shall be passed by the court which imposed the punishment last.
3. In a case under paragraph 1 subparagraph 1.2 of the present Article, the court which in imposing an aggregate punishment erroneously included a punishment already comprised in an earlier judgment shall modify its judgment.
4. In a case under paragraph 1 subparagraph 1.3 of the present Article, the court which adjudicated in first instance shall modify the earlier judgment in respect of

- the punishment and impose a new punishment, or it shall determine what part of the punishment imposed in the earlier judgment should be enforced.
5. The new judgment shall be passed at a session of the panel upon a motion of the state prosecutor if the proceedings were initiated at his or her request or upon that of the accused, but after hearing the opposing party.
 6. In a case under paragraph 1 subparagraph 1.1 or 1.2 of the present Article, if judgments of other courts were taken into consideration in imposing the punishment, a certified copy of the new final judgment shall be sent to those courts.

Article 421 Resumption of Proceedings

If the indictment was dismissed under Article 253 paragraph 1 subparagraph 1.2 or Article 358 of the present Code, proceedings shall be resumed upon the request of the state prosecutor as soon as the reasons for the rendering of such ruling cease to exist.

Article 422 Reopening of criminal proceedings dismissed by a final ruling

1. Criminal proceedings which were dismissed in a final form before the main trial can be reopened if the state prosecutor withdrew the indictment and it is proven that this withdrawal was a result of the criminal offence of the abuse of the official function of the state prosecutor. While proving this criminal offence, provisions of Article 423, paragraph 2 of the present Code shall be applied.
2. If the indictment was dismissed based on insufficient evidence to support a well-grounded suspicion that the defendant has committed the criminal offence as described in the indictment and if new facts and evidence are discovered and obtained, a new indictment can be filed if the review panel determines that new evidence and facts justify this.

Article 423 Reopening Criminal Proceedings Terminated by Final Judgment

1. Criminal proceedings terminated by a final judgment may only be reopened if:
 - 1.1. it is proven that the judgment rests on a forged document or a false statement of a witness, expert witness or interpreter;
 - 1.2. it is proven that the judgment ensued from a criminal offence committed by a judge or a person who undertook investigative actions;
 - 1.3. new facts are discovered or new evidence is produced which, alone or in connection with previous evidence, appears likely to justify the acquittal of the convicted person or his or her conviction under a less severe criminal provision;
 - 1.4. a person was tried more than once for the same offence or several persons were convicted of the same offence which could have been committed only by a single person or only by some of them; or

- 1.5. in the case of conviction for a continuous criminal offence, or some other criminal offence which under the law includes several acts of the same kind or different kinds, new facts are discovered or new evidence is produced which indicates that the convicted person did not commit an act included in the criminal offence, of which he or she was convicted and the existence of these facts would have critically influenced the determination of punishment.
2. Criminal proceedings terminated by a final judgment may be reopened only in favour of the defendant, except that if it is proven that the circumstances under paragraph 1 subparagraphs 1.1 and 1.2 of the present Article have been a result of a criminal offence committed by the defendant or a person acting on his/her behalf against a witness, expert witness, interpreter, state prosecutor, judge or those close to such persons, criminal proceedings terminated by a final judgment may be reopened against the defendant. The reopening of criminal proceedings against a defendant is only permissible within five (5) years of the time the final judgment was rendered.
3. In cases under paragraph 1 subparagraphs 1.1 and 1.2 or paragraph 2 of the present Article, it must be proven by a final judgment that the persons concerned have been found guilty of criminal offences in question. If proceedings against these persons cannot be conducted because they are dead or because other circumstances exist which preclude criminal prosecution, the facts under paragraph 1 subparagraphs 1.1 and 1.2 or paragraph 2 of the present Article may be proven by using other evidence.

Article 424

Persons Authorized to Request Reopening of Criminal Proceedings

1. The reopening of criminal proceedings may be requested by the parties and defence counsel. After the death of the convicted person, the reopening may be requested by the state prosecutor or by the spouse, the extramarital spouse, a blood relation person in a direct line to the first degree, an adoptive parent, an adopted child, a brother, a sister or a foster parent of the convicted person.
2. The reopening of criminal proceedings may be requested even after the convicted person has served his or her sentence and irrespective of the period of statutory limitation, an amnesty or a pardon.
3. The court which is competent to decide on the reopening of criminal proceedings shall, upon learning of the existence of grounds to reopen criminal proceedings, notify thereof the convicted person or another person authorized to file the request.

Article 425

Content of the request for reopening criminal proceedings and the court deciding thereupon

1. A request for reopening criminal proceedings shall be decided by the review panel of the Basic Court which adjudicated the previous proceedings.
2. The request shall specify the legal ground on which the reopening is requested and

the evidence supporting the facts on which the request rests. If the request does not contain this information, the court shall ask the requesting party to supplement the request within a specified time.

3. A judge who participated in rendering the judgment in previous proceedings may not take part in the deliberations of the panel on the request for reopening.

Article 426

Basis and procedure for dismissing the request to reopen criminal proceedings

1. The court shall dismiss the request by a ruling on the basis of the request itself and the files of previous proceedings if it finds that:
 - 1.1. the request has been filed by an unauthorized person;
 - 1.2. there are no legal grounds for reopening of proceedings;
 - 1.3. the facts and evidence on which the request rests were presented in an earlier request for reopening of proceedings which was rejected by a final ruling;
 - 1.4. the facts and evidence obviously do not provide adequate grounds to grant the reopening of proceedings; or
 - 1.5. the person who requests the reopening of proceedings did not abide by the provisions under Article 425, paragraph 2, of the present Code.
2. If the request is not dismissed, the court shall serve a copy of the request on the state prosecutor or opposing party who shall be entitled to reply within eight (8) days. After the court has received the reply to the request, or after the time limit for the reply has expired, the presiding judge of the review panel shall order that the facts and evidence indicated in the request and the reply thereto be produced and examined.

Article 427

Decisions of the Panel on the request for reopening proceedings

1. On the basis of the results of the inquiries the court shall either grant the request and allow the reopening of criminal proceedings or reject the request.
2. If the court finds that the grounds on which it has allowed the reopening of proceedings also benefit a co-accused who has not requested the reopening of proceedings, it shall proceed *ex officio* as if such request had also been filed by that person.
3. In the ruling by which the reopening of criminal proceedings is allowed the court shall order that a new main trial be scheduled immediately or that the case be returned to the stage of investigation or that an investigation be opened if none was conducted before.
4. The court shall order that the execution of the judgment shall be postponed or interrupted if, having regard to the evidence filed, the court considers that:
 - 4.1. the convicted person may be given a sentence in the retrial as a result of which, allowing for the part of the sentence already served, he or she would have to be released;
 - 4.2. he or she may be acquitted of the charge; or

- 4.3. the charge against him or her may be rejected.
5. When a ruling granting the reopening of criminal proceedings becomes final, the enforcement of punishment shall be stayed. However, if grounds provided for in Article 187 paragraph 1 of the present Code exist, the court shall order detention on remand.

Article 428

Rules on new reopening proceedings

1. New proceedings, held on the basis of a ruling which grants the reopening of criminal proceedings, shall be conducted in accordance with the provisions applying to the original proceedings. In the new proceedings, the court shall not be bound by the rulings rendered in the original proceedings.
2. If new proceedings are terminated prior to the opening of the main trial, the earlier judgment shall be annulled by a ruling on termination.
3. In rendering a new judgment, the court shall either annul the earlier judgment or a part thereof or affirm the earlier judgment. In the punishment imposed by the new judgment, the court shall give credit for a sentence already served and if reopening was granted only for some of the acts of which the accused was convicted or acquitted, it shall impose a new aggregate punishment in accordance with the provisions of criminal law.
4. In new proceedings, the prohibition under Article 395 of the present Code shall be binding on the court.

B. Extraordinary Mitigation of Punishment

Article 429

Permission of extraordinary mitigation of punishment

An extraordinary mitigation of a finally imposed punishment is permissible where, after the judgment has become final, circumstances occur which did not exist when the judgment was rendered or, although they existed, were unknown to the court at that time, and such circumstances obviously would have led to a less severe punishment.

Article 430

Persons Authorized to Request Extraordinary Mitigation of Punishment and Consequences

1. An extraordinary mitigation of punishment may be requested by the state prosecutor, if proceedings were initiated at his or her request, by the convicted person or by his or her defence counsel.
2. A request for an extraordinary mitigation of punishment shall not stay the execution of the punishment.

Article 431

The procedure on the request for extraordinary mitigation of punishment and the Supreme Court Decisions

1. A request for an extraordinary mitigation of punishment shall be decided by the Supreme Court of Kosovo.
2. A request in compliance with Article 376 of the present Code for an extraordinary mitigation of punishment shall be filed at the Basic Court which pronounced the judgment.
3. The Basic Court shall serve the request upon the state prosecutor, who shall file a reply in accordance with Article 377 of the present Code.
4. The single trial judge or presiding trial judge of the Basic Court shall dismiss requests that are not compliant with Article 376 of the present Code.
5. The Basic Court shall examine whether there are grounds for an extraordinary mitigation of punishment, it shall refer the files together with its reasoned recommendation to the Supreme Court of Kosovo.
6. The Supreme Court of Kosovo shall reject the request if it finds that there are no legal grounds for an extraordinary mitigation of punishment. When approving the request, the court shall modify by a ruling the final judgment in respect of the decision on punishment.

C. Request for Protection of Legality

Article 432

Grounds for filing a request for protection of legality

1. A request for protection of legality against a final judicial decision or against judicial proceedings which preceded the rendering of that decision may, after the proceedings have been completed in a final form, be filed in the following instances:
 - 1.1. on the ground of a violation of the criminal law;
 - 1.2. on the ground of a substantial violation of the provisions of criminal procedure provided for in Article 384, paragraph 1, of the present Code; or
 - 1.3. on the ground of another violation of the provisions of criminal procedure if such violation affected the lawfulness of a judicial decision.
2. A request for protection of legality may not be filed on the ground of an erroneous or incomplete determination of the factual situation, nor against a decision of the Supreme Court of Kosovo in which a request for the protection of legality was decided upon.
3. Notwithstanding the provisions under paragraph 1 of the present Article, the Chief State Prosecutor may file a request for protection of legality on the grounds of any violation of law.
4. Notwithstanding the provisions under paragraph 1 of the present Article, a request for protection of legality may be filed during criminal proceedings which have not been completed in a final form only against final decisions ordering or extending detention on remand.

Article 433

Persons Authorized to File Requests for Protection of Legality

1. A request for protection of legality may be filed by the Chief State Prosecutor, the defendant or his or her defence counsel. Upon the death of the defendant, such request may be filed on behalf of the defendant by the persons listed in the final sentence of Article 424, paragraph 1 of the present Code.
2. The Chief State Prosecutor, the defendant and his or her defence counsel and the persons listed in the final sentence of Article 424 paragraph 1 of the present Code may file a request for protection of legality within three (3) months of the service of the final judicial decision on the defendant. If no appeal has been filed against the decision of the Basic Court, the time shall be counted from the day when that decision becomes final.
3. If a decision of the European Court of Human Rights establishes that a final judicial decision against the defendant violates human rights, the prescribed period of time for filing the request for protection of legality shall be counted from the day the decision of the European Court of Human Rights was served on the defendant.
4. Notwithstanding the provision under Article 432 paragraph 2 of the present Code, a request for protection of legality based on a decision under paragraph 3 of the present Article shall also be possible against a decision of the Supreme Court of Kosovo.

Article 434

Filing the request for protection of legality at the basic court

1. A request for protection of legality shall be filed with the Basic Court which rendered the decision.
2. The competent pretrial judge, single trial judge or presiding trial judge of the Basic Court shall dismiss a request for protection of legality by a ruling if:
 - 2.1. the request was filed against a decision of the Supreme Court of Kosovo under Article 432, paragraph 2, of the present Code, except in cases referred to in Article 433 paragraph 4 of the present Code;
 - 2.2. the request was filed by a person not entitled thereto under Article 433, paragraph 1, of the present Code; or
 - 2.3. the request is belated under Article 433 paragraph 2 of the present Code.
3. This ruling may be appealed in the Court of Appeals.
4. Depending on the content of the request, the Basic Court may order that the enforcement of the final judicial decision be postponed or terminated.

Article 435

Consideration of Request for Protection of Legality by Panel of Supreme Court

1. A request for protection of legality shall be considered by the Supreme Court of Kosovo in a session of the panel.
2. The Supreme Court of Kosovo shall dismiss a request for protection of legality by

a ruling if the request is prohibited or belated under Article 434, paragraph 2, of the present Code, otherwise it shall send a copy of the request to the opposing party who may reply thereto within fifteen (15) days of receipt of the request.

3. Before a decision is taken on the request, the reporting judge may, if necessary, provide a report on the alleged violations of law.
4. Depending on the content of the request, the Supreme Court of Kosovo may order that the enforcement of the final judicial decision be postponed or terminated.

Article 436

Benefits of the defendant regarding the request for protection of legality

1. When deciding on a request for protection of legality the Supreme Court of Kosovo shall confine itself to examining those violations of law which the requesting party alleges in his or her request.
2. If the Supreme Court of Kosovo finds that reasons for deciding in favour of the defendant also exist in respect of another co-accused for whom a request for protection of legality has not been filed, it shall proceed *ex officio* as if such request has also been filed by that person.
3. In deciding on a request for protection of legality filed in favour of the defendant, the Supreme Court of Kosovo shall be bound by the prohibition under Article 395 of the present Code.

Article 437

Rejection of Request for Protection of Legality

The Supreme Court of Kosovo shall, by a judgment, reject a request for protection of legality as unfounded if it determines that the violation of law alleged by the requesting party does not exist or that a request for protection of legality is filed on grounds of an erroneous or incomplete determination of the factual situation under Article 386 and Article 432, paragraph 2, of the present Code.

Article 438

Judgment on Request for Protection of Legality

1. If the Supreme Court of Kosovo determines that a request for protection of legality is well-founded it shall render a judgment by which, depending on the nature of the violation, it shall:
 - 1.1. modify the final decision;
 - 1.2. annul in whole or in part the decision of both the Basic Court and the higher court or the decision of the higher court only, and return the case for a new decision or retrial to the Basic Court or the higher court; or
 - 1.3. confine itself only to establishing the existence of a violation of law.
2. If the Supreme Court of Kosovo finds that a request for protection of legality filed to the disadvantage of the defendant is well-founded, it shall only determine that the law was violated but shall not interfere in the final decision.
3. If the Court of Appeals was not entitled under the present Code to annul a violation

of law committed in a decision at first instance or in judicial proceedings which preceded it and the Supreme Court of Kosovo finds that the request filed in favour of the accused is well-founded and that the annulment of the committed violation requires that the decision at first instance be annulled or altered, the Supreme Court of Kosovo shall annul or alter the decision of the Court of Appeals as well, even though the law has not thereby been violated.

Article 439

Consequences of Factual Doubt in Decision Challenged by Request

If in proceedings on a request for protection of legality considerable doubt arises as to the accuracy of the factual determination in a decision challenged by the request, the Supreme Court of Kosovo shall in its judgment on the request for protection of legality annul that decision and order a new main trial to be held before the same or another Basic Court.

Article 440

Annulment of Final Judgment of Basic Court

1. If a final judgment is annulled and the case returned for retrial, proceedings shall be based on the earlier indictment or the part thereof which relates to the annulled part of the judgment.
2. The court shall be bound to undertake all procedural actions and determine all issues to which it has been alerted by the Supreme Court of Kosovo.
3. The parties shall be entitled to present new facts and evidence before the Basic Court or Court of Appeals.
4. In rendering a new decision, the court shall be bound by the prohibition under Article 395 of the present Code.
5. If the decision of the Court of Appeals is annulled as well as the decision of the Basic Court, the case shall be returned to the Basic Court through the Court of Appeals.

Article 441

Constitution of the Republic of Kosovo, European Convention on Human Rights and European Court of Human Rights

A request for an extraordinary legal remedy under the present Chapter may be filed on the basis of rights available under this Code which are protected under the Constitution of the Republic of Kosovo or the European Convention on Human Rights and its Protocols, as well as any decision of the European Court of Human Rights.

**PART THREE
ADMINISTRATION OF PROCEDURE**

**CHAPTER XXII
SUBMISSIONS**

**Article 442
Method of filing submissions**

1. Indictments, motions for prosecution, rulings by prosecutors, legal remedies and other statements and communications shall be filed in writing or given orally on the record.
2. A submission filed under paragraph 1 of the present Article may be filed electronically if the court registry is capable of administrating electronic submissions. The Kosovo Judicial Council shall determine the capacity of the courts to administer electronic submissions and shall issue a directive permitting such electronic submissions and providing regulations upon such submissions.
3. A submission filed under paragraph 1 of the present Article must be comprehensible and must contain everything necessary for it to be acted upon.
4. Unless otherwise provided for in the present Code, when a submission has been filed which is incomprehensible or does not contain everything necessary for it to be acted upon, the court shall summon the person making the submission to correct or supplement the submission; and if he or she does not do so within a specified period of time, the court shall reject the submission.
5. The summons to correct or supplement the submission shall warn the person making the submission of the consequences of his or her failure to do so.

**Article 443
Filing submissions in sufficient copies**

1. A submission which under the present Code is given to the opposing party in the proceedings shall be served on the court in a sufficient number of copies for the court and the other party.
2. If a submission has not been given to the court in a sufficient number of copies, the court shall order the person making the submissions to furnish a sufficient number of copies within a specified period of time. If the person making the submission does not carry out the order of the court, the court shall make the necessary number of copies at the expense of the person making the submission.

**Article 444
Punishments for written submissions or verbal submissions that contain insults**

The court shall impose a fine of up to two hundred and fifty (250) EUR on a defence counsel or an injured party who in a submission or in a verbal statement offends or insults the court or an individual participating in proceedings. The judge or the panel before which such statement has been made shall render a ruling on the punishment,

and if it was made in a submission, the court which should rule on the submission shall decide. An appeal is permitted against this ruling. If the state prosecutor insults someone else, the competent supervising state prosecutor shall be so informed. The bar association shall be informed of the punishment imposed on a member of the bar or an attorney in training.

CHAPTER XXIII PRESCRIBED PERIODS OF TIME

Article 445 Prescribed Periods of Time

1. The prescribed periods of time envisaged by the present Code may not be extended unless the law explicitly so permits. If a prescribed period of time has been defined by law for the realization of the right to defence and other procedural rights of the defendant, the prescribed period of time may be shortened at the request of the defendant in writing or orally in the record before the court.
2. When a statement must be given within a prescribed period of time, it shall be deemed to have been made in due time if it has been served on the authorized recipient before the lapse of the prescribed period of time.
3. When a statement is sent by post, registered mail or telegram, or by other means (telex, telefax or similar means), the date of mailing or sending it shall be considered as the date of the service on the person to whom it has been sent. It is considered that the sender of the statement has not exceeded the prescribed period of time when the person who is intended to receive the statement has not received it on time because of mistakes in the means of service, of which the sender was unaware.
4. A defendant who is in detention on remand may also make a statement which must be filed within a prescribed period of time, by entering it into the record of the court conducting the proceedings or by serving it on the administration of the prison, and a person who is serving a prison sentence or who is an inmate in some other facility because of an order for mandatory rehabilitation treatment may serve such statement on the administration of the facility in which he or she is an inmate. The day when such record was compiled or when the statement was served on the administration of the facility shall be taken as the date of service on the authorized recipient.
5. If a submission which must be filed within a prescribed period of time has been served or sent because of ignorance or an obvious mistake of the sender before the expiry of the prescribed period of time to a court which is not competent, it shall be taken that it was filed on time though it reaches the competent court after the expiry of the prescribed period of time.

Article 446 Calculation of Prescribed Periods of Time

1. A prescribed period of time shall be calculated in hours, days, months and years.

2. The hour or day when a service or communication was made or when an event occurred, which serves as the commencement of a prescribed period of time, shall not be included in the prescribed period of time, but the next hour or next day shall be taken as commencement of the prescribed period of time. Twenty-four (24) hours shall be taken as a day, but a month shall be computed according to the calendar.
3. A prescribed period of time set in months or years shall expire on the last month or year at the end of the same day of the month on which the prescribed period of time began. If there is no such day in the last month, the prescribed period of time shall expire on the last day of that month.
4. If the last day of the prescribed period of time falls on an official holiday, on Saturday or Sunday or on any other day when the competent body does not work, the prescribed period of time shall expire at the end of the next working day.

Article 447

Petition to Return to *Status Quo Ante*

1. If the defendant for justified reasons does not within the prescribed period of time file an appeal against a judgment or against a ruling to confiscate material benefit, the court shall allow a return to the *status quo ante* for filing the appeal if, within eight (8) days following the termination of the reasons for not acting within the prescribed period of time, the defendant files a petition for a return to the *status quo ante* and files the announcement of the appeal or the appeal itself simultaneously with the petition.
2. A petition for a return to the *status quo ante* may not be filed if three (3) months have passed from the date when the prescribed period of time expired.

Article 448

Ruling to Return to *Status Quo Ante*

1. The ruling on a return to the *status quo ante* shall be rendered by the presiding judge, who has rendered the judgment or ruling against which an appeal has been filed.
2. No appeal shall be permitted against a ruling allowing a return to the *status quo ante*.
3. If a defendant appeals a ruling refusing a return to the *status quo ante*, the court must serve that appeal, or the appeal of the judgment or ruling to confiscate material benefit, the response to the appeal and all other parts of the record to the higher court for a decision.

Article 449

Effect of Petition to Return to *Status Quo Ante*

As a rule, a petition for a return to the *status quo ante* shall not stay the execution of a judgment or the execution of a ruling to confiscate material benefit, but the court competent to rule on the petition may decide to halt execution until a decision is made on the petition.

CHAPTER XXIV COSTS OF CRIMINAL PROCEEDINGS

Article 450

Type of criminal proceedings costs

1. The costs of criminal proceedings are the costs incurred during the criminal proceedings and because of those proceedings.
2. The costs of criminal proceedings include the following:
 - 2.1. costs of witnesses, expert witnesses, interpreters, specialists, stenography and technical recordings as well as the cost of a site inspection;
 - 2.2. costs of transporting the defendant;
 - 2.3. costs of escorting the defendant or person in detention on remand;
 - 2.4. transportation and travelling expenses of official persons;
 - 2.5. costs of medical treatment of the defendant while in detention on remand or a medical institution in accordance with a court decision and the expenses of childbirth;
 - 2.6. a scheduled amount;
 - 2.7. remuneration and necessary expenses of defence counsel; and
 - 2.8. necessary expenses of the injured party and his or her legal representative and remuneration and necessary expenses of his or her authorized representative.
3. The scheduled amount shall be within a range provided for in an Administrative Direction issued by the Kosovo Judicial Council which takes into consideration the duration and complexity of proceedings and the financial condition of the person required to pay the amount.
4. The expenses under subparagraphs 2.1 through 2.5 of paragraph 2 of the present Article and remuneration and the necessary expenses of an appointed defence counsel and an appointed authorized representative of an injured party shall be paid in advance from the funds of the police, the state prosecutor or the court conducting criminal proceedings and they shall later be collected from the individuals who are required to pay for them under the provisions of the present Code. The body conducting the criminal proceedings must enter all expenses which it has paid in advance in a list that shall be appended to the record.
5. The costs of interpretation into the languages of the defendant, witness and other persons participating in the criminal proceedings which are incurred during the application of the provisions of the present Code shall not be collected from individuals who under the provisions of the present Article are required to pay the costs of criminal proceedings.
6. The costs of interpretation shall not be paid by the defendant who does not know or speak the language in which the criminal proceedings are conducted.
7. The remuneration and necessary expenses of a defence counsel appointed under Article 57 paragraph 2 or 3 or Article 58 of the present Code shall be paid from budgetary resources and shall not be paid by the defendant.

Article 451
Decision on Covering Costs of Criminal Proceedings

1. Every judgment or ruling which terminates criminal proceedings shall contain a decision on who will cover the costs of the proceedings and the amount of the costs.
2. If the data on the amount of the costs is lacking, a separate ruling on the amount of the costs shall be rendered by the recording clerk of the court and approved by the single trial judge or the presiding judge when such data is obtained. The request with the data on the amount of costs may be filed within three (3) months of the day of the service of a legally effective judgment or ruling on the person who is entitled to make such request.
3. When the decision on costs of criminal proceedings is contained in a separate ruling, the appeal against that ruling shall be decided by a panel.

Article 452
Payment of costs due to fault of a person that caused them

1. The defendant, the injured party, the defence counsel, the legal representative, the authorized representative, the witness, the expert witness, the interpreter, and the specialist, regardless of the outcome of the criminal proceedings, shall meet the costs of their compulsory appearance, the postponement of an investigative action, and other costs of proceedings incurred through their own fault, as well as the corresponding share of the scheduled amount.
2. A separate ruling shall be rendered concerning the costs under paragraph 1 of the present Article, unless the matter of costs to be paid by the defendant is decided in a decision on the main issue.

Article 453
Effect of Guilty Verdict on Reimbursement of Costs

1. When the court finds the defendant guilty, it shall decide in the judgment that he or she must reimburse the costs of criminal proceedings.
2. A person who has been charged with several criminal offences shall not be ordered to reimburse costs related to a criminal offence of which he or she has been acquitted if those costs can be determined separately from the total costs.
3. In a judgment finding several defendants guilty, the court shall specify what portion of the costs shall be paid by each of them; but if this is not possible, it shall order that all the defendants be jointly and severally liable for the costs. Payment of the scheduled amount shall be specified for each defendant separately.
4. In a decision which settles the issue on costs, the court may relieve the defendant of the duty to reimburse entirely or partially the costs of criminal proceedings as provided for in Article 450, paragraph 2, subparagraphs 2.1 through 2.6, of the present Code, if their payment would jeopardize the support of the defendant or of the persons whom he or she is required to support. If these circumstances are ascertained after the decision on costs has been rendered, the single trial judge or

presiding trial judge may render a separate ruling relieving the defendant of the duty to reimburse the costs of criminal proceedings or permitting payment of the costs by installment.

Article 454

Effect of other decisions on reimbursement of costs

1. When criminal proceedings are terminated or when a judgment is rendered which acquits the defendant or rejects the charge, the court shall state in the ruling or judgment that the costs of criminal proceedings under Article 450, paragraph 2, subparagraphs 2.1 through 2.5, of the present Code, the necessary expenses of the defendant and the remuneration and necessary expenditures of defence counsel shall be paid from budgetary resources, except in the cases specified in the following paragraphs of the present Article.
2. A person who has deliberately filed a false charge shall pay the costs of criminal proceedings.
3. An injured party who has withdrawn a motion for prosecution so that the proceedings are terminated shall bear the costs of the criminal proceedings if the defendant has not announced that he will pay for them.

Article 455

Remuneration and the necessary costs for defense council or authorized representative

1. The remuneration and necessary expenses of defence counsel or injured party must be paid by the person represented regardless of who is ordered to pay the costs of criminal proceedings in the decision of the court, unless either the defence counsel is appointed under Article 57 paragraph 2 or 3 or under Article 58 of the present Code.
2. A defence counsel or authorized representative shall not be entitled to remuneration if they are not members of the Bar. They are entitled to necessary expenses, and defence counsel is also entitled to income lost.

Article 456

Final Decision on Duty to Pay Costs

1. The final decision concerning the duty to pay costs which arise in the Basic Court shall be made by the competent judge or panel of the Basic Court in accordance with this Chapter.
2. The final decision concerning the duty to pay costs which arise in the court of appeals shall be made by the presiding judge of the court of appeals panel in accordance with this Chapter.
3. The final decision concerning the duty to pay costs which arise in the Supreme Court shall be made by the presiding judge of the Supreme Court panel in accordance with this Chapter.

Criminal laws

4. The terms of this Chapter shall apply *mutatis mutandis* to the costs incurred during the proceedings related to extraordinary legal remedies.

Article 457
Regulations on Costs

More detailed regulations on reimbursement of the costs of criminal proceedings incurred before the courts shall be issued in an Administrative Direction issued by the Kosovo Judicial Council, which may be adjusted annually.

CHAPTER XXV
PROPERTY CLAIMS

Article 458
Property Claims

1. A property claim arising from the commission of a criminal offence shall be settled on the motion of the authorized persons in criminal proceedings if this would not considerably prolong those proceedings.
2. A property claim may pertain to compensation for damage, recovery of an object or annulment of a particular legal transaction.

Article 459
Persons authorized to file a motion for realization of property claims

1. The motion to realize a property claim in criminal proceedings may be filed by the person authorized to pursue that claim in civil litigation.
2. If a criminal offence has caused damage to publicly-owned, state-owned or socially owned property, the body or competent authority empowered by law to ensure the protection of that property may participate in criminal proceedings in accordance with the powers which it has on the basis of that law.

Article 460
Filing of Motion to Realize Property Claims

1. A motion to realize a property claim in criminal proceedings shall be filed with the competent body with which the criminal report is filed or the court before which proceedings are being conducted.
2. The motion may be filed no later than the end of the main trial before the Basic Court.
3. The person authorized to file the motion must state his or her claim specifically and submit evidence.
4. If the authorized person has not filed the motion to realize his or her property claim in criminal proceedings before the indictment is brought, he or she shall be informed that he or she may file that motion up to the end of the main trial. If a criminal offence has caused damage to publicly-owned, state-owned or socially-

owned property and no motion has been filed, the court shall so inform the body or competent authority under Article 459 paragraph 2 of the present Code.

Article 461

Withdrawal and Abandonment of Motion to Realize Property Claims

1. Authorized persons may withdraw a motion to realize a property claim in criminal proceedings up to the end of the main trial and pursue it in civil litigation. Once a motion has been withdrawn, that same motion may not be filed again unless otherwise provided for by the present Code.
2. If after the motion was filed and before the end of the main trial the property claim has passed under the rules of property law to another person, that person shall be summoned to declare whether or not he or she stands by the motion. If he or she does not appear when duly summoned, it shall be taken that he or she has abandoned the motion.

Article 462

Review of the motion to realize property claims

1. The court conducting the criminal proceedings shall examine the defendant concerning the facts alleged in the motion and shall investigate the circumstances relevant to establishing the property claim. But even before such motion is filed, the court has a duty to collect evidence and conduct the investigation necessary to making a decision on the claim.
2. If the investigation of the property claim would considerably prolong criminal proceedings, the court shall restrict itself to collecting data which would be impossible or considerably more difficult to establish at a later stage.

Article 463

Decision on Motion to Realize Property Claims

1. The court shall decide on property claims.
2. In a judgment pronouncing the accused guilty the court may award the injured party the entire property claim or may award him or her part of the property claim and refer him or her to civil litigation for the remainder. If the data collected in the criminal proceedings do not provide a reliable basis for either a complete or a partial award, the court shall instruct the injured party that he or she may pursue the entire property claim in civil litigation.
3. If the court renders a judgment acquitting the accused of the charge or rejecting the charge or if it renders a ruling to dismiss criminal proceedings, it shall instruct the injured party that he or she may pursue the property claim in civil litigation. When a court is declared not competent for the criminal proceedings, it shall instruct the injured party that he or she may present his or her property claim in the criminal proceedings commenced or continued by the competent court.

Article 464
Recovery of Object

If a property claim pertains to the recovery of an object, and the court finds that the object belongs to the injured party and is in the possession of the defendant or one of the participants in the criminal offence or in the possession of a person to whom they gave it for safekeeping, it shall order in the judgment that the object be handed over to the injured party.

Article 465
Annulment of Legal Transactions

If a property claim pertains to the annulment of a specific legal transaction and the court finds that the petition is well founded, it shall order in the judgment the complete or partial annulment of that legal transaction with the consequences that derive from it, without prejudice to the rights of third parties.

Article 466
Amendment of the final judgment regarding the property claim

1. The court conducting criminal proceedings may amend a final judgment which contains a decision on a property claim only in connection with the reopening of criminal proceedings or a request for protection of legality.
2. In all other cases the convicted person or his or her heirs may seek amendment of a final judgment of a criminal court which contains a decision on a property claim only in civil litigation and provided that there are grounds for a revision under the provisions applicable to civil litigation procedure.

Article 467
Temporary Measures to Secure Property Claim

1. Temporary measures securing a property claim arising out of the commission of a criminal offence may be ordered in criminal proceedings according to the provisions that apply to enforcement proceedings upon a motion from authorized persons under Article 459 of the present Code.
2. The ruling under paragraph 1 of the present Article shall be rendered during the pretrial proceedings by the pre-trial judge. After the indictment has been filed, the ruling shall be rendered by the single trial judge or presiding trial judge in cases outside the main trial, and it shall be rendered in the main trial by the entire trial panel.
3. No appeal shall be permitted against the ruling of the trial panel concerning temporary measures securing the claim. In other cases an appeal shall be ruled on by the three (3) judge panel. An appeal shall not suspend execution of the ruling.

Article 468
Return of Property to Injured Party

1. If a claim pertains to items that unquestionably belong to the injured party and they do not constitute evidence in criminal proceedings, such items shall be handed over to the injured party even before proceedings are completed.
2. If the ownership of items is disputed by several injured parties, they shall be referred to civil litigation and the court in criminal proceedings shall order only the safekeeping of the items as a temporary measure securing the claim.
3. Items that serve as evidence shall be sequestered temporarily and at the end of proceedings shall be returned to the owner. If such item is urgently needed by the owner, it may be returned to him or her even before the end of the proceedings, if he or she undertakes to bring it in upon request.

Article 469
Measures for ensuring temporary realization of the motion for property claims against third persons

1. If an injured party has a claim against a third person because he or she is in possession of items obtained through the commission of a criminal offence or because he or she realized a material benefit because of a criminal offence, the court in criminal proceedings, upon the motion of authorized persons and according to the provisions which apply to enforcement proceedings, may order temporary measures securing the claim against that third party. The provisions of Article 467 paragraphs 2 and 3 of the present Code apply also in this case.
2. In a judgment pronouncing the accused guilty, the court shall either revoke the measures under paragraph 1 of the present Article if they have not already been revoked or shall refer the injured party to civil litigation, in which case those measures shall be revoked unless civil litigation is initiated within the period of time determined by the court.

CHAPTER XXVI
RENDERING AND PRONOUNCING DECISIONS

Article 470
Types and rendering decisions

1. Decisions are rendered in criminal proceedings in a form of judgments, rulings and orders.
2. A judgment may be rendered only by a court, while ruling may also be rendered by the state prosecutor, whereas the order may be rendered by other public bodies that participate in criminal proceedings.
3. An order may be rendered and pronounced in line with provisions of the present Code.

Article 471

Procedure to render decisions at the deliberation and voting session of the trial panel

1. A decision of a panel of judges shall be rendered after oral deliberation and voting. A decision is rendered when a majority of the members of the panel have voted for it.
2. The presiding trial judge shall direct the deliberation and the voting and shall vote last. It is his or her duty to see that all issues are fully examined from every point of view.
3. If, in regard to individual questions on which a vote is taken, the votes are divided in several different opinions so that no one of them is in a majority, the issues shall be separated and the voting shall be repeated until a majority is reached. If a majority is not reached in this manner, a decision shall be taken whereby the votes which are most unfavourable to the defendant shall be added to the votes which are less unfavourable than these until the necessary majority is reached.
4. The members of the panel may not refuse to vote on questions put by the presiding trial judge, but a member of the panel who has voted to acquit the accused or to revoke the verdict and who has remained in the minority shall not be obliged to vote on the penalty. If he or she does not vote, it shall be taken that he or she consented to the vote which was most favourable to the accused.

Article 472

The sequence for reviewing matters which are subject to voting

1. When rendering a decision, a vote shall first be taken on whether the court is competent, on whether it is necessary to complete the proceedings, and on other preliminary issues.
2. When rendering a decision on the main issue, a vote shall first be taken on whether the accused has committed the criminal offence and whether he or she is criminally liable, and thereafter a vote shall be taken on the punishment, other criminal sanctions or measures of mandatory treatment, the costs of criminal proceedings, property claims and other issues which are to be decided.
3. If an individual has been charged with several criminal offences, a vote shall be taken on criminal liability and punishments for each criminal offence, and thereafter a vote shall be taken on a single punishment for all the criminal offences.

Article 473

Closed deliberation and voting session

1. Deliberation and voting shall be conducted in a secret session.
2. Only members of the panel and the recording clerk may be present in the room where the court conducts its deliberation and voting.

Article 474
Communication of Decision

1. Unless otherwise provided for by the present Code, decisions shall be communicated to the interested parties orally if they are present and by service of a certified copy if they are absent.
2. If a decision has been orally communicated, this shall be indicated in the record or on the document and the person receiving the decision shall confirm this by his or her signature. If the person concerned declares that he or she will not appeal, the certified copy of an orally communicated decision shall not be served on him or her unless otherwise provided for by the present Code.
3. Copies of decisions against which an appeal is permitted shall be served along with instructions on the right of appeal.

CHAPTER XXVII
SERVICE OF DOCUMENTS

Article 475
Manner of service of documents

1. Documents shall as a rule be served by mail. Service may also be effected through the authorized municipal body, through an official of the body which rendered the decision or directly with that body.
2. A court may also serve orally a summons to a main trial or other summonses on a person who is before the court, accompanied by instructions as to the consequences of failure to appear. A summons issued in this manner shall be noted in the record which shall be signed by the person summoned, unless such summons has been recorded in the record of the main trial. It shall be taken that valid service has thereby been effected.
3. A court or prosecutor may direct the Kosovo Police to serve documents if, after the first attempt under paragraph 1 or 2 of the present Article, service is unsuccessful, it is unclear whether service was successful, or the person summoned does not appear as directed. The Court may also direct the Kosovo Police to serve a summons without resorting to paragraph 1 or 2 of the present Article if it believes that the person is unlikely to comply with service under paragraph 1 and 2 of the present Article.

Article 476
Personal Service of Documents

A document that under the present Code must be personally served shall be directly presented to the person to whom it is addressed. If the person on whom the document must be personally served is not found where the service is to be effected, the person effecting the service shall find out when and where that person may be found and shall leave with one of the persons referred to in Article 477 of the present Code a written notice directing the addressee of the document to be in his or her dwelling or

workplace on a particular day and hour in order to receive the document. If even then the person effecting the service does not find the person on whom the service is to be effected, he or she shall proceed according to the provisions of Article 477 paragraph 1 of the present Code and it shall be assumed that the service has thereby been effected.

Article 477

Alternatives to Personal Service

1. A document for which the present Code does not specify obligatory personal service shall also be served in person but if the addressee is not found at home or at work, such document may be given to any adult member of his or her household, who must accept the document. If they are not found at home, the document shall be left with a guardian or a neighbour, if he or she consents to accept it. If service is effected at the workplace of a person on whom a document is to be served and that person is not found there, it may be served on a person authorized to receive the mail, who must accept the document, or a person employed at that same workplace, if he or she consents to accept the document.
2. If a document cannot be served on persons under paragraph 1 of the present Article, a note shall be left for the addressee with an indication of the post office at which the document can be collected and the time limit within which it may be collected. A document not collected within the time limit specified shall be returned.
3. If it is ascertained that the person on whom a document is to be served is absent and that the persons referred to in paragraph 1 of the present Article may not therefore present the document to him or her on time, the document shall be returned with an indication of where the absent person is located.

Article 478

Documents to be Personally Served

1. The summons to the first examination in pre-trial proceedings and to the main trial shall be personally served on the defendant.
2. The indictment, the judgment and other decisions in which the prescribed period of time for appeal commences on the date of service, including the appeal of an opposing party that is being served for an answer, shall be personally served on a defendant who does not have defence counsel. At the request of the defendant, the judgment and other decisions shall be served on a person designated by him or her.
3. If a defendant who does not have a defence counsel is to be served a judgment in which a prison sentence has been imposed on him or her and the judgment may not be served at his or her previous address, the court shall automatically appoint defence counsel for the defendant, who shall perform that duty until the new address of the defendant is ascertained. The appointed defence counsel shall be given the necessary period of time to acquaint himself or herself with the files, whereupon the judgment shall be served on the appointed defence counsel and proceedings shall resume. In the case of another decision for which the date of service constitutes the commencement of the prescribed period of time for filing an

appeal or in the case of an appeal of the opposing party which is being served for a reply, if the person effecting the service has been unable to ascertain the new address of the defendant, the decision or appeal shall be displayed on the bulletin board of the court and, at the expiry of eight (8) days from the date of display, it shall be assumed that valid service has been effected.

4. If the defendant has a defence counsel, a document under paragraph 2 of the present Article shall be served on the defence counsel and the defendant in accordance with the provisions of Article 477 of the present Code. In such case, the prescribed period of time for pursuing a legal remedy or answering an appeal shall commence on the date when the document is served on the defendant. If the decision or appeal cannot be served on the defendant because he or she has failed to report his or her address, it shall be displayed on the bulletin board of the court and, at the end of eight (8) days from the date of display, it shall be assumed that valid service has been effected.
5. If a document is to be served on defence counsel of the defendant, and the defendant has more than one defence counsel, it shall be sufficient to effect service on one of them.

Article 479 Procedure of Service

1. The recipient and the person effecting the service shall sign the receipt confirming that service has been effected. The recipient shall himself or herself indicate the date of acceptance of the service on the receipt.
2. If the recipient does not know how to write or is unable to sign his or her name, the person effecting the service shall sign for him or her, shall indicate the date of the service, and shall make a note as to why he or she signed for the recipient.
3. If the recipient refuses to sign the receipt, the person effecting the service shall make a note to that effect on the receipt and shall indicate the date of service is thereby effected.

Article 480 Refusal to Accept Service

If the addressee or an adult member of his or her family refuses to accept the document, the person effecting the service shall note on the receipt the date, hour and reason for refusal, and shall leave the document in the dwelling of the addressee or in his or her workplace and service is thereby effected.

Article 481 Service of documents in special circumstances

1. Police officers, guards in institutions where persons deprived of their liberty are held, and land and air transport employees (in land, maritime and air transportation) shall be served summonses through their command or immediate superior, and, if necessary, other documents may also be served on them in the same manner.

2. A summons shall be served on a prisoner through the court or through the institution where he or she is an inmate.
3. Persons who enjoy the right of immunity in Kosovo, unless otherwise specified by international agreement, shall be served summonses in accordance with the provisions of the present Chapter. No personal service of a summons may be made at the premises of an international organization protected by international law or agreement.

Article 482

Service on State Prosecutor

1. Decisions and other documents shall be served on the state prosecutor by being presented to the registry of the office of the state prosecutor.
2. In the case of service of decisions or other documents for which a prescribed period of time commences on the date of service, the date of presentation of the document to the registry of the office of the state prosecutor shall be taken as the date of service.
3. When the state prosecutor so requests, the court shall serve on him or her the file on a criminal case for examination. If a prescribed period of time for pursuing an ordinary legal remedy is running or if other procedural considerations so require, the court may determine a date by which the state prosecutor must return the file.

Article 483

Reference to Civil Litigation Procedure

In the cases which have not been specifically provided for in the present Code service shall be effected according to the provisions that apply to civil litigation procedure.

Article 484

Service of documents through other participants in the procedure

1. Summonses and decisions issued before the end of the main trial and addressed to a person other than the defendant who is participating in the proceedings may be served on a participant in the proceedings who consents to serve them on the addressee, if the body concerned considers that their receipt is ensured in this manner.
2. The persons referred to in paragraph 1 of the present Article may be informed of a summons to a main trial or other summonses and of a decision postponing a main trial or other scheduled actions by means of telecommunication if one can assume from the circumstances that notice given in that manner will be received by the addressee.
3. An official note shall be made in the record that a summons or decision has been served in the manner provided for in paragraphs 1 and 2 of the present Article.
4. A person who has been informed of or sent a decision pursuant to paragraph 1 or 2 of the present Article may suffer the harmful consequences of a failure to take action, only if it is ascertained that he or she received the summons or decision in good time and was made aware of the consequences of a failure to take action.

**CHAPTER XXVIII
EXECUTION OF DECISIONS**

**Article 485
Finality and enforceability of Decisions**

1. A judgment shall become final when it may no longer be contested by an appeal or when no appeal is permitted.
2. A final judgment shall be executed if its service has been effected and if there are no legal obstacles to its execution. If an appeal has not been filed, or if the parties have waived the right to appeal or abandoned the appeal filed, the judgment shall be considered executable upon the expiry of the period of time prescribed for appeal or upon the day of the waiver or abandonment of the appeal.
3. If the court which rendered the judgment at first instance is not competent to execute it, it shall serve a certified copy of the judgment on the body competent to execute it along with a certificate that execution is to be carried out.
4. The provisions applicable to the execution of criminal sanctions shall be set forth in separate legislation.

**Article 486
Enforcement of a punishment of fine**

If a fine imposed by the present Code cannot be collected even by compulsion, the court shall execute it by applying Article 46 of the Criminal Code.

**Article 487
Enforcement of judgment related to expenditures of criminal proceedings,
confiscation of material benefits and property claims**

1. With respect to the costs of criminal proceedings, confiscation of material benefit and property claims the judgment shall be executed by the competent court under the provisions that apply to enforcement proceedings.
2. Collection by compulsion of the costs of criminal proceedings which are to be paid into the budget shall be carried out *ex officio*. The costs of collection by compulsion shall be paid first from the budgetary resources of the court.
3. If a judgment imposes the accessory punishment of confiscation of objects, such objects shall automatically become the property of the State. A certified copy of the final judgment shall immediately be sent to the Agency for Management of Sequestered and Confiscated Assets which may sell the objects or place them in the use of the Government. The monetary proceeds from sale of such objects shall be credited to the budget.
4. Paragraph 3 of the present Article shall also apply *mutatis mutandis* when a decision is made on the confiscation of objects on the basis of Chapter XVIII, Section 2 of the present Code.
5. Aside from the reopening of criminal proceedings or a petition for the protection of legality, a final order to confiscate an object may be amended in civil litigation if a dispute arises as to the ownership of the object confiscated.

Article 488

Enforcement of decision and order

1. Unless otherwise provided for in the present Code, a ruling shall be executed when it becomes final. An order shall be executed immediately unless the body issuing the order orders otherwise.
2. A ruling becomes final when it may no longer be contested by an appeal or when no appeal is permitted.
3. Unless otherwise provided for, rulings and orders shall be executed by the bodies that have rendered them. If in a ruling a court has decided on the costs of criminal proceedings, those costs will be collected in accordance with the provisions of Article 487 paragraphs 1 and 2 of the present Code.

Article 489

Hesitation in enforcement of decision and its corrections

1. If a doubt arises as to whether the execution of a court decision is permissible or as to the calculation of a punishment, or if a final judgment fails to make a decision to credit pretrial detention or earlier served punishment, or the calculation has not been done correctly, a decision shall be made on those points in a separate ruling which shall be rendered by the presiding judge of the panel of the court which tried the case in the first instance. An appeal shall not stay execution of the ruling unless the court specifies otherwise.
2. If doubt arises as to the interpretation of a court decision, the court that rendered the final decision shall decide on it.

Article 490

Issuance of certified transcript of the decision regarding the property claim

When a decision in which a property claim is decided becomes final, the injured party may request the court which rendered the decision in the first instance to issue him or her a certified transcript of the decision, indicating that the decision can be executed.

Article 491

Record keeping on convicted persons

Criminal records and records of convicted persons shall be kept by the competent public entity in the field of judicial affairs. The manner of keeping the records shall be set forth in a bylaw.

**CHAPTER XXIX
OTHER PROVISIONS**

**Article 492
Immunity under International Law**

1. The rules of international law shall apply for exclusion from criminal prosecution of foreign persons, who enjoy immunity.
2. If there is a doubt as to the immunity enjoyed by a person, based on paragraph 1 of the present Article, the body that conducts the procedure shall address the issue to the Ministry Foreign Affairs for clarification.

**PART FOUR
SPECIAL PROCEEDINGS**

**CHAPTER XXX
PROCEEDINGS FOR THE ISSUANCE OF A PUNITIVE ORDER**

**Article 493
Request for Punitive Order**

1. For criminal offences which come to the knowledge of the state prosecutor on the basis of a credible criminal report and are punishable by imprisonment of up to three (3) years or a fine, the state prosecutor may request in an indictment that the court issue a punitive order imposing by it a certain punishment on the accused without holding a main trial.
2. The state prosecutor may request the imposition of one or more of the following measures: a fine, prohibition on driving a motor-vehicle, an order to publish a judgment, the confiscation of an object, a judicial admonition or the confiscation of the material benefit acquired by the commission of a criminal offence.

**Article 494
Dismissal of Request for Punitive Order**

1. A single judge shall dismiss a request to issue a punitive order if it concerns a criminal offence for which such request may not be filed or if the state prosecutor requests the imposition of a punishment which is not permitted under the law. The review panel shall decide within a prescribed period of forty-eight (48) hours on the state prosecutor's appeal from a ruling on dismissal.
2. If the single judge considers that the information in the indictment does not offer sufficient grounds to issue a punitive order or that according to such information the imposition of some other punishment than the one requested by the state prosecutor can be expected, he or she shall, upon receipt of an indictment, schedule a main trial.

Article 495
Punitive Order Issued by Judgment

1. If the single judge agrees with the request, he or she shall issue a punitive order by a judgment.
2. The punitive order shall state that the state prosecutor's request is satisfied and that the punishment in the request shall be imposed on the defendant whose personal data shall be clearly indicated. The enacting clause of the judgment on a punitive order shall contain the necessary information under Article 365, paragraph 1, of the present Code, including the decision on a property claim, if a motion for its realization was filed. A statement of grounds shall state the evidence which justifies the issuance of the punitive order.
3. The punitive order shall contain an instruction to the defendant in accordance with the provisions under Article 496, paragraph 2, of the present Code and stating that after the expiry of the term for submitting an objection, if no objection is submitted, the punitive order shall become final and the punishment imposed on the defendant shall be enforced.

Article 496
Service of judgment for punitive order its objection

1. The punitive order shall be served on the defendant and his or her defence counsel, if he or she has one, and the state prosecutor.
2. The defendant or his or her defence counsel may, within a term of eight (8) days of receipt, submit an objection against the punitive order in writing or orally on the record with the court. The objection need not contain a statement of reasons; it may propose evidence for the benefit of the defence. The defendant may waive his or her right to submit an objection, but he or she may not withdraw the submitted objection after the main trial has been scheduled. Payment of a fine before the expiry of the term for submitting an objection shall not be deemed to be a waiver of the right to an objection.
3. The judge shall grant a return to the *status quo ante* to the defendant who, for justifiable reasons, fails within the prescribed period of time to submit an objection. The provisions of Articles 447 and 448 of the present Code shall apply when deciding on a petition for a return to the *status quo ante*.
4. If the single judge does not dismiss the objection as belated or because it is submitted by an unauthorized person, he or she shall schedule the main trial on the state prosecutor's indictment.
5. A review panel of three (3) judges shall decide on an appeal from the ruling on the dismissal of the objection against the punitive order within the deadline set forth in paragraph 1 of Article 494 of the present Code.

Article 497
Single Trial Judge Not Bound by Request for Punitive Order

When rendering a judgment following an objection, a single judge is not bound by the

state prosecutor's request under Article 493 paragraph 2 of the present Code, nor by the prohibition under Article 395 of the present Code.

CHAPTER XXXI RENDERING OF A JUDICIAL ADMONITION

Article 498 Judicial Admonition

1. A judicial admonition shall be rendered by a judgment.
2. Unless otherwise provided for in the present Chapter, the provisions of the present Code relating to the judgment by which an accused is declared guilty shall apply *mutatis mutandis* to a judgment on judicial admonition.

Article 499 Announcement and content of enactment clause of the judgment for judicial admonition

1. The judgment on judicial admonition shall be announced immediately upon the conclusion of the main trial, together with the essential reasons.
2. The enacting clause of the judgment on judicial admonition shall contain the personal data of the accused, an indication that the judicial admonition against the accused has been rendered for the act alleged in the indictment and the legal name of the criminal offence. The enacting clause of the judgment on judicial admonition shall also contain the necessary data under Article 365, paragraph 1 subparagraphs 1.4 and 1.6 of the present Code.
3. In the statement of grounds for the judgment, the court shall state the reasons which guided it in rendering the judicial admonition.

Article 500 Grounds for appeal against the judgment on judicial admonition

1. The judgment on judicial admonition may be appealed on grounds provided for in Article 383 paragraph 1 subparagraphs 1.1, 1.2 and 1.3 of the present Code and on the ground that circumstances warranting the rendering of a judicial admonition do not exist.
2. Where a judgment on judicial admonition contains a decision on a measure of mandatory rehabilitation treatment, confiscation of the material benefit acquired by the commission of a criminal offence, costs of criminal proceedings or a property claim, such judgment may be challenged on the ground that the court has not applied correctly the measures of mandatory rehabilitation treatment or the confiscation of the material benefit acquired by the commission of a criminal offence or that its decision on the costs of criminal proceedings or on the property claim was rendered contrary to legal provisions.

Article 501

Prohibition from exceeding judicial powers foreseen by the law

Aside from the violations of criminal law referred to in Article 385 of the present Code, in a case in which a judicial admonition is rendered, there shall also be a violation of criminal law where the court exceeds the powers legally vested in it by its decision on a judicial admonition, a measure of mandatory rehabilitation treatment or the confiscation of the material benefit acquired by the commission of a criminal offence.

Article 502

Effect of Appeal

1. Where a judgment on judicial admonition is appealed by the state prosecutor to the detriment of the accused, the court of appeals may render a judgment by which the accused is found guilty and is punished or by which an alternative punishment is imposed on him or her, if it finds that the basic court has determined the material facts correctly but that correct application of the law requires that a punishment be imposed.
2. On the occasion of any appeal against a judgment on judicial admonition, the court of appeals may render a judgment dismissing the indictment, or acquitting the accused of the charge, if it finds that the basic court has determined the material facts correctly but that correct application of the law warrants the rendering of one of the aforesaid judgments.
3. When grounds specified in Article 401 of the present Code exist, the court of appeals shall render a judgment by which it rejects the appeal as unfounded and affirms the judgment on judicial admonition rendered by the basic court.

CHAPTER XXXII

PROCEEDINGS REGARDING PERSONS WHO HAVE COMMITTED CRIMINAL OFFENCES UNDER THE INFLUENCE OF ALCOHOL AND DRUG ADDICTION

Article 503

Imposition of measure for mandatory rehabilitation treatment

1. The court may impose a measure of mandatory rehabilitation treatment of perpetrators addicted to alcohol or drugs on the perpetrator who has committed a criminal offence under the influence of alcohol or drug addiction, by a judgment of conviction, in accordance with Articles 58 and 90 of the Criminal Code.
2. The measure under paragraph 1 of the present Article may be imposed by the court, regardless of the sanction imposed on the accused and its execution takes place regardless of whether the accused is at liberty or serving a punishment of imprisonment.
3. The court shall decide upon the application of a measure under paragraph 1 of the present Article after obtaining an expert analysis and hearing the state prosecutor and the defence. The expert analysis should explain the possibilities for the treatment of the defendant.

4. The time spent in a medical institution for a measure of mandatory rehabilitation treatment shall be included in the duration of the punishment of imprisonment.

Article 504

Oversight of Mandatory Rehabilitation Treatment by Court

1. The court which imposed the measure of mandatory rehabilitation treatment in a health care institution shall, *ex officio* or on the motion of the health care institution and on the basis of the opinion of psychiatric experts, take all further decisions in respect of the duration and modification of the measure referred to in Article 90 of the Criminal Code.
2. The decisions under the previous paragraph shall be taken by a review panel after a hearing. Notification of the hearing shall be sent to the state prosecutor and defence counsel. Before taking the decision the court shall hear the opinions of an expert witness and of the perpetrator if his health condition permits this.
3. In proceedings to reconsider the duration or modification of a measure of mandatory rehabilitation treatment the perpetrator must have defence counsel.
4. Every two (2) months the court shall in accordance with paragraph 2 of the present Article *ex officio* determine whether conditions for the measure of mandatory rehabilitation treatment in a health care institution still exist. An expert witness who is not working at the health care institution where the perpetrator is receiving mandatory rehabilitation treatment, shall conduct an expert analysis and shall submit his or her findings in writing and, if necessary, he or she shall give testimony at the court.
5. The court shall discontinue the implementation of the measure under the paragraph 1 of the present Article if treatment or rehabilitation is not necessary any more or the period of time prescribed in Article 90 of the Criminal Code has expired.

Article 505

Mutatis Mutandis application of other provisions of the present Code

Unless otherwise provided for by the present Chapter, other provisions of the present Code shall apply *mutatis mutandis* to persons who have committed a criminal offence under the influence of alcohol and drug addiction.

CHAPTER XXXIII

PROCEEDINGS INVOLVING PERPETRATORS WITH A MENTAL DISORDER

Article 506

Definitions

For the purposes of this chapter:

1. “**Mental disorder**” means any disability or disorder of mind or brain, whether permanent or temporary, which results in an impairment or disturbance of mental functioning;

2. “**Mental incompetence**” has the meaning set forth in paragraph 1 of Article 18 of the Criminal Code;
3. “**Diminished mental capacity**” has the meaning set forth in paragraph 2 of Article 18 of the Criminal Code; and
4. “**Measure of mandatory psychiatric treatment**” means a measure of mandatory psychiatric treatment and custody in a health care institution or a measure of mandatory psychiatric treatment at liberty.

Article 507

Measures of Mandatory Treatment under Criminal Code

A perpetrator with a mental disorder, or a person being treated as such, shall be accorded the rights and measures of mandatory treatment under Chapter V of the Criminal Code.

Article 508

Conduct of Psychiatric Examination

1. At any time during the proceedings including during the main trial, if there is a suspicion that the defendant was in a state of mental incompetence or diminished mental capacity at the time of the commission of the criminal offence or that he or she has a mental disorder, a court may, *ex officio* or upon the motion of a state prosecutor or defence counsel, appoint an expert under Article 146 of the present Code to conduct a psychiatric examination of a defendant in order to determine whether:
 - 1.1. at the time of the commission of the criminal offence, the defendant was in a state of mental incompetence or diminished mental capacity; or
 - 1.2. the defendant is incompetent to stand trial.
2. The order shall state the time by which the psychiatric examination is to be completed, which shall be within two (2) weeks of the issuance of the order. If the defendant does not already have a defence counsel the court shall issue an order appointing defence counsel at public expense for the defendant.
3. The defence counsel may attend a psychiatric examination conducted to determine the competence of the defendant to stand trial, unless the expert determines that such attendance would impede a fair assessment of the defendant.
4. If the expert determines that the psychiatric examination of the defendant requires observation at a health care institution or if the defendant refuses to comply with the psychiatric examination, the expert shall submit a reasoned request for a ruling on custody in a health care institution to the court. The court may, after hearing the state prosecutor and the defence counsel, issue a ruling to hold the defendant in the custody of
5. a health care institution for up to two (2) weeks. An appeal against this ruling shall not stay its execution.
6. If the expert determines that the psychiatric examination of the defendant pursuant to paragraph 1 of the present Article or observation at a health care institution pursuant to paragraph 4 of the present Article requires more time, he or she shall

submit a reasoned request for an extension to the court. The court may order the extension for up to two (2) weeks.

7. If observation at a health care institution pursuant to paragraph 4 of the present Article is imposed on a person already subject to detention on remand, the time spent in a health care institution shall be included in the period of detention on remand.
8. In the case of a psychiatric examination ordered pursuant to paragraph 1 subparagraph 1.1 of the present Article, the expert shall indicate in the opinion the following elements: the nature, type, degree and duration of the mental disorder of the defendant; the kind of influence this mental disorder has had and still does have on the comprehension and actions of the defendant, and whether and to what degree this mental disorder existed at the time when the criminal offence was committed.
9. In the case of a psychiatric examination ordered pursuant to paragraph 1, subparagraph 1.2 of the present Article, the expert shall indicate in the opinion the following elements: the nature, type, degree and duration of the mental disorder of the defendant and the kind of influence this mental disorder has on the comprehension and actions of the defendant, in particular, on his or her ability to defend him or herself, to consult with others including defence counsel and to understand the charge.

Article 509

Detention on remand of persons with a mental disorder

1. Apart from cases in Article 187 of the present Code where detention on remand may be ordered, the court may order detention on remand against a person if:
 - 1.1. there is a grounded suspicion that such person has committed a criminal offence;
 - 1.2. according to a psychiatric examination ordered under Article 508 of the present Code, the person was in a state of mental incompetence or diminished mental capacity at the time of the commission of the criminal offence; and
 - 1.3. the person currently has a mental disorder and as a result, there are grounds to believe that he or she will endanger the life or health of another person.
2. Detention on remand pursuant to paragraph 1 of the present Article may be ordered only if the state prosecutor has submitted a motion referred to in Article 512 of the present Code. Such detention on remand shall be served in a health care institution and may last for as long as the defendant is dangerous but shall not exceed the prescribed periods of time for detention on remand set forth in Article 190 of the present Code.
3. If the defendant is already in detention on remand and is subsequently determined to have been in a state of mental incompetence at the time of the commission of the criminal offence, the court shall order the defendant to serve the detention on remand in a health care institution if he or she currently has a mental disorder.
4. The court shall render a ruling pursuant to paragraph 1 or 3 of the present Article only after hearing the state prosecutor, the defence counsel and the defendant, if

his or her condition permits, and after reviewing the opinion of an expert. Such ruling shall be served on the state prosecutor, defendant and his or her defence counsel, the health care institution and the detention facility. The appeal shall not stay the execution of the order.

5. The health care institution shall decide upon measures to ensure public safety and security and the security and safety of the defendant after consultation with the competent detaining authority, taking into account both security and therapeutic needs.
6. Provisions under the present Code on detention on remand shall apply *mutatis mutandis* to detention on remand served in a health care institution.

Article 510

Ruling on competence to stand trial

1. The court, *ex officio* or upon the motion of the defence counsel or state prosecutor, shall issue a ruling on the competence of the defendant to stand trial after reviewing the report of the expert issued pursuant to Article 508 of the present Code and hearing the state prosecutor, the defence counsel and the defendant.
2. The court shall rule that the defendant is incompetent to stand trial if he or she currently has a mental disorder and owing to such mental disorder, he or she is unable to defend himself or herself, to consult with defence counsel or to understand the proceedings.
3. A ruling on the competence of the defendant to stand trial may be appealed.

Article 511

Dismissal or suspension of proceedings due to ruling on incompetence to stand trial

1. If the court rules that a defendant is incompetent to stand trial during the course of proceedings due to a permanent mental disorder, it shall issue a decision to dismiss the proceedings.
2. If the court rules that a defendant is incompetent to stand trial during the course of proceedings because he or she has become afflicted by a temporary mental disorder after committing the criminal offence, the investigation shall be suspended or the main trial shall be adjourned, in accordance with the present Code.
3. If proceedings were dismissed pursuant to paragraph 1 of the present Article, proceedings shall be resumed upon the request of the state prosecutor as soon as the reasons for the rendering of such ruling cease to exist.
4. If the court rules that a defendant is incompetent to stand trial pursuant to the present Article, it may request the initiation of proceedings for his or her committal to a health care institution pursuant to the applicable Law on Non-Contentious Proceedings. In such case, the court may rule that the defendant be detained in a health care institution for a maximum period of forty-eight (48) hours pending the initiation of proceedings for committal to a health care institution under the applicable Law on Non-Contentious Proceedings, if as a result of the person's

mental disorder there are grounds to believe that he or she will endanger the life or health of another person.

Article 512

Motion by the prosecutor for a measure of mandatory psychiatric treatment

1. Prior to the opening of the main trial, the state prosecutor shall file a motion that the court impose a measure of mandatory psychiatric treatment, if the defendant has committed a criminal offence in a state of mental incompetence and the grounds for imposing such a measure exist, as provided in Articles 88 and 89 of the Criminal Code.
2. During the main trial, the state prosecutor shall amend the indictment and file a motion that the court impose a measure of mandatory psychiatric treatment, if the evidence presented at the main trial suggests that the defendant has committed a criminal offence in a state of mental incompetence and if the grounds for imposing such a measure exist, as provided in Articles 88 and 89 of the Criminal Code.
3. The defendant must have defense counsel once the motion referred to in paragraph 1 or 2 of the present Article has been filed.

Article 513

Conduct of proceedings to impose measure of mandatory psychiatric treatment

1. A measure of mandatory psychiatric treatment shall be imposed after a main trial is held by the court which is competent to try the case in the first instance.
2. In addition to the persons who must be summoned to the main trial, experts and psychiatrists shall also be summoned from the health care institution entrusted with conducting the psychiatric examination of the mental capacity of the defendant. The spouse of the defendant and his or her parents or foster parent shall be notified of the main trial.
3. The decision to impose a measure of mandatory psychiatric treatment shall be based on the examination of the persons summoned and the findings and opinions of the expert. In making the decision as to which measure to impose, the court shall not be bound by the state prosecutor's motion.

Article 514

Decisions of the court

1. The court shall issue a ruling to dismiss the proceedings to impose a measure of mandatory psychiatric treatment if the grounds for imposing a measure of mandatory psychiatric treatment, as provided in Articles 88 and 89 of the Criminal Code, do not exist.
2. The court shall render a judgment to acquit the defendant, if the defendant was mentally incompetent at the time of the commission of the criminal offence and the state prosecutor did not file a motion to impose a measure of mandatory psychiatric treatment, pursuant to Article 512 of the present Code.
3. The court shall issue a ruling to impose a measure of mandatory psychiatric treatment, if the grounds for imposing a measure of mandatory psychiatric

treatment, as provided in Articles 88 and 89 of the Criminal Code, exist and the state prosecutor filed a motion to impose a measure of mandatory psychiatric treatment, pursuant to Article 512 of the present Code. The ruling shall state:

- 3.1. the act which the defendant was determined to have committed, the legal designation of the act and the provisions of the criminal law applied;
- 3.2. the determination that the defendant committed the act in a state of mental incompetence; and
- 3.3. the measure of mandatory psychiatric treatment imposed on the defendant.
4. All persons who have the right to appeal a judgment, except the injured party, have the right to file an appeal against the decision of the court within eight (8) days of the receipt of the decision.
5. In cases where the court decided to dismiss proceedings pursuant to paragraph 1 of the present Article because it determined that the defendant was mentally competent at the time of committing the criminal offence, the state prosecutor may waive the right to appeal this ruling and may immediately file an indictment. The indictment shall be filed within eight (8) days from waiving the right to appeal.
6. In cases referred to in paragraph 5 of the present Article the main trial shall be reopened before the same panel and the proceedings shall continue on the basis of the new indictment subject to the following conditions:
 - 6.1. the court may recess the main trial for the preparation of the defence; and
 - 6.2. evidence presented earlier shall not be presented again except in cases provided under Article 311 of the present Code or if the panel finds that it is necessary for individual items of evidence to be presented again.

Article 515

Imposition and calculation of measure of mandatory psychiatric treatment

1. When a court renders a judgment on a person who has committed a criminal act in a state of diminished mental capacity, it shall also in that judgment impose a measure of mandatory psychiatric treatment if the grounds for imposing such a measure exist under Articles 88 and 89 of the Criminal Code.
2. The measures from paragraph 1 of the present Article may be imposed regardless of whether the defendant is at liberty or the punishment of imprisonment was imposed.
3. The time spent in a health care institution pursuant to Article 508 of the present Code, an order for detention on remand pursuant to Article 509 of the present Code or a measure of mandatory psychiatric treatment in custody shall be included in the imposed punishment.

Article 516

Notification of decision imposing a measure of mandatory psychiatric treatment

Once it has become final, the decision imposing a measure of mandatory psychiatric treatment in custody or a measure of mandatory psychiatric treatment at liberty shall be filed with the court which is competent to render a decision on the deprivation of the capacity to perform legal acts. The competent Centre for Social Welfare shall also be notified of the decision.

Article 517
Right to defence counsel

The perpetrator shall have defense counsel during proceedings to modify or terminate a measure of mandatory psychiatric treatment.

Article 518
Execution of Psychiatric Treatment

The execution of psychiatric treatment under this chapter shall be governed by Articles 181 to 187 of the Law on Execution of Criminal Sanctions.

CHAPTER XXXIV
PROCEEDINGS FOR THE REVOCATION OF ALTERNATIVE
PUNISHMENTS

Article 519
Conditions for Revocation of Alternative Punishments

1. Where a suspended sentence is conditioned on the performance of one of the obligations provided for in Article 51 of the Criminal Code and the accused fails to perform that obligation within the period of time determined by the court, the basic court shall initiate proceedings to revoke the suspended sentence upon the motion of the authorized state prosecutor or the injured party or *ex officio*.
2. The judge assigned to the case shall examine the convicted person if he or she can be reached and shall conduct the necessary inquiries to determine facts and collect evidence material to adjudication, whereupon he or she shall send the files to the panel.
3. The presiding trial judge shall schedule a session of the panel, of which he or she shall notify the state prosecutor, the convicted person and the injured party. The panel shall hold a session, whether the duly summoned parties and the injured party appear or fail to comply with the summons.
4. If the court establishes that the convicted person has failed to comply with the obligation imposed on him or her by the judgment, it shall render a judgment in accordance with Article 55 of the Criminal Code.

CHAPTER XXXV
PROCEEDINGS FOR RENDERING A DECISION ON THE EXPUNGEMENT
OF CONVICTION

Article 520
Expungement of Conviction

1. Where the law provides for a conviction to be expunged after the expiry of a specific period of time provided that the offender does not commit a new criminal offence within that time under Article 103 of the Criminal Code, the competent

public entity in the field of judicial affairs shall render a ruling expunging the conviction *ex officio*.

2. Prior to rendering the ruling, the necessary inquiries shall be made and, in particular, information shall be gathered as to whether criminal proceedings are in progress against the convicted person for a criminal offence committed before the expiry of the period of time prescribed for the expungement of the sentence.

Article 521

Procedure for expungement of conviction when the administrative body fails to act

1. If the competent public entity in the field of judicial affairs fails to render the ruling, the convicted person may request a determination that the expungement of the sentence has accrued by force of law.
2. If the competent public entity in the field of judicial affairs fails to render the ruling expunging the sentence within thirty (30) days of the request being filed, the convicted person may request that a ruling expunging the sentence be rendered by the court which passed the judgment in first instance.
3. Such request shall be decided by the court after hearing the state prosecutor, if proceedings were initiated upon his or her request.

Article 522

Expungement with Alternative Punishments

If an alternative punishment is not revoked one (1) year after the expiry of the verification period the court which adjudicated in the first instance shall render a ruling expunging the sentence. The ruling shall be served on the convicted person, the state prosecutor, if proceedings were conducted upon his or her request, as well as the competent public entity in the field of judicial affairs.

Article 523

Proceedings to expunge punishment based on a judicial decision

1. Proceedings to expunge a punishment on the basis of a judicial decision under Article 104 of the Criminal Code shall be initiated upon the petition of the convicted person.
2. The petition shall be filed with the court which adjudicated in first instance.
3. The judge assigned to the case shall first establish whether the necessary period of time according to the law has elapsed, and then he or she shall make the necessary inquiries to determine the facts alleged by the petitioner and collect evidence on all circumstances relevant for the decision.
4. The court may request a report on the conduct of the petitioner from the police in whose territory he or she has resided after serving his or her punishment and may request a similar report from the administration of the institution in which he or she served the punishment.
5. After completing the inquiries and upon hearing the state prosecutor if proceedings

were conducted upon his or her request, the judge shall send the files together with a motion supported by reasoning to the panel of the court which judged the case at first instance.

6. The decision of the court on expunging the punishment may be appealed by the petitioner or the state prosecutor.
7. If the court rejects the petition on the ground that the conduct of the petitioner does not warrant the expunging of the punishment, the petitioner may renew the petition two (2) years after the day the ruling rejecting the petition became final.

Article 524

Effect of Expungement on Criminal Records

An expunged punishment may not be mentioned in certificates issued on the basis of criminal records for the exercise of rights of individuals.

CHAPTER XXXVI

PROCEEDINGS FOR COMPENSATION, REHABILITATION AND THE EXERCISE OF OTHER RIGHTS OF PERSONS WHO HAVE BEEN CONVICTED OR ARRESTED WITHOUT JUSTIFICATION

1. Proceedings for Compensation of Persons who have been Convicted or Arrested without Justification

Article 525

Persons who have the right to compensation for unjustified trial

1. A person shall be entitled to compensation for damages caused by an unjustified conviction if a criminal sanction has been imposed in a final form on him or her or if he or she has been found guilty and punishment was waived, but later on the basis of an extraordinary legal remedy, the reopened proceedings were dismissed in a final form or he or she was acquitted of the charge by a final judgment or the charge against him or her was rejected, except in the following instances:
 - 1.1. where the proceedings were terminated or a judgment rejecting the charge was rendered because in the new proceedings the injured party withdrew the motion and the act of withdrawal was effected in agreement with the defendant; or
 - 1.2. where in the reopened proceedings the charge was rejected by a ruling because the court did not have competence and the authorized state prosecutor initiated prosecution before the competent court.
2. The convicted person shall not be entitled to compensation for damages caused if, by a false confession or in some other way, he or she deliberately brought about his or her conviction, except where he or she was compelled to do so.
3. In the case of conviction for concurrent offences, the right to compensation for damages may also refer to individual criminal offences in respect of which conditions for recognition of compensation have been fulfilled.

Article 526

Petition for compensation from administrative body and its statutory limitations

1. The right to compensation for damages shall expire three (3) years from the entry into force of the judgment in the first instance acquitting the accused of the charge or rejecting the charge, or three years from the entry into force of the first instance ruling dismissing the charge or terminating the proceedings. If the appeal was decided by a higher court, the right to seek compensation for damages shall expire three (3) years from the receipt of the decision of that court.
2. Before filing the claim for compensation for damages with the court, the injured party shall address a petition to the competent public entity in the field of judicial affairs to try and reach agreement on the existence of the damages and the type and extent of compensation.
3. In the instance referred to in subparagraph 1.2, paragraph 1 of Article 525 of the present Code the request may only be processed if the authorized state prosecutor fails to initiate prosecution at the competent court within three (3) months of receipt of the final ruling. If the authorized state prosecutor starts prosecution at the competent court after the expiry of that prescribed period of time, proceedings for compensation for damages shall be suspended until criminal proceedings have been concluded.

Article 527

Claim for Compensation

1. If the petition for compensation for damages is not granted or the competent public entity in the field of judicial affairs and the injured party do not reach agreement within three (3) months from the day of the filing of the petition, the injured party may file a claim for compensation for damages with the competent court. If agreement was reached regarding only a part of the petition, the injured party may bring a claim for the outstanding part.
2. The limitation period under Article 526, paragraph 1, of the present Code, shall not apply for as long as the proceedings under the first paragraph of the present Article are pending.
3. The claim for compensation for damages shall be filed against the competent public entity in the field of judicial affairs.

Article 528

Compensation after Death of Claimant

1. Heirs shall inherit the right of the injured party to recover compensation only for material damage. If the injured party has already filed the petition, the heirs may continue proceedings only within the limits of the petition already submitted for compensation for material damage.
2. After the death of the injured party, his or her heirs may continue proceedings for compensation for damages, or may initiate proceedings if the injured party had died before the expiry of the period of statutory limitation without waiving the right to file a petition.

Article 529

Persons with right to compensation for ungrounded deprivation of liberty

1. The right to compensation shall also be enjoyed by:
 - 1.1. a person who was held in detention on remand and criminal proceedings against him or her were not initiated or the proceedings were dismissed by a final ruling or proceedings were terminated or he or she was acquitted of the charge by a final judgment or the charge was rejected;
 - 1.2. a person who served a punishment of deprivation of liberty, if, by reason of the reopening of criminal proceedings or a request for protection of legality, he or she was sentenced to a punishment of the deprivation of liberty shorter than the one he or she has already served or to a criminal sanction not involving deprivation of liberty, or if he or she was found guilty but punishment was waived;
 - 1.3. a person who by reason of an error or unlawful act of an authority was arrested without any grounds or held for some time in detention on remand or in an institution for serving a punishment or a measure; and
 - 1.4. a person who was held in detention on remand for longer than the term of imprisonment imposed on him or her.
2. A person who without legal justification was arrested under Article 163 of the present Code shall be entitled to compensation if detention on remand was not ordered against him or her or the time he or she spent under arrest was not counted in the punishment imposed on him or her for a criminal offence or a minor offence.
3. The right to compensation shall not be enjoyed by a person whose arrest was caused by his or her own reprehensible conduct. In instances under paragraph 1 subparagraphs 1.1 and 1.2 of the present Article, the right to compensation shall be precluded if circumstances exist as provided for in Article 525, paragraph 1, subparagraphs 1.1 and 1.2, of the present Code.
4. In proceedings for compensation under paragraphs 1 and 2 of the present Article, the provisions of the present Chapter shall apply *mutatis mutandis*.

2. Rehabilitation

Article 530

Announcement of the media release which indicates that the previous trial was ungrounded

1. If a case of an unjustified conviction or a groundless arrest of a person was presented in the media and the reputation of that person was thereby harmed, the court shall, upon request of that person, announce in a newspaper or some other media a report on the decision clarifying that the conviction was unjustified or the arrest was groundless. If the case was not announced in the media the court shall upon request of that person send such report to his or her employer. After the death of the convicted person the right to file such request shall be held by his or her spouse, or his or her extramarital partner, and by his or her children, parents, brothers and sisters.

2. The request under paragraph 1 of the present Article may be submitted even if compensation for damages is not sought.
3. Aside from the conditions provided for in Article 525 of the present Code, a request under paragraph 1 of the present Article shall also be filed when in connection with an extraordinary legal remedy the legal qualification of the act was changed, if the reputation of the convicted person was seriously harmed due to the legal qualification in the previous judgment.
4. A request under paragraph 1, 2 or 3 of the present Article shall be filed within six (6) months under Article 526, paragraph 1, of the present Code with the court which adjudicated in criminal proceedings in the first instance. The request shall be determined by a panel of the court of appeals. In determining the request, Article 525, paragraphs 2 and 3, and Article 529, paragraph 3, of the present Code shall apply *mutatis mutandis*.

Article 531

Ruling to Annul Unjustified Conviction

The court which adjudicated in criminal proceedings in the first instance shall render a ruling *ex officio* annulling the entry of an unjustified conviction in criminal records. The ruling shall be sent to the competent public entity in the field of judicial affairs. Data from the annulled entry must not be communicated to anybody.

Article 532

Restrictions to inspection and photocopying of the case files

A person who is authorized to inspect and copy the files relating to an unjustified conviction or groundless arrest of a person may not use data from these files in a manner which would prejudice the rehabilitation of the person against whom criminal proceedings were conducted. The president of the court shall be bound to warn such person thereof, and a note to that effect shall be written on the file and signed by that person.

3. Proceedings for the Realization of Other Rights

Article 533

Realization of Other Rights

1. A person who by virtue of an unjustified conviction or groundless arrest has lost employment or status as an insured person under the social security system shall be entitled to have the length of work service or the period of time as an insured person lost in that way counted as if he or she were employed during the time lost through the unjustified conviction or groundless arrest. The time of unemployment resulting from an unjustified conviction or groundless arrest which did not occur through the fault of that person shall also be counted in the period of service.
2. In every decision on a right affected by the length of work service or of insurance contribution, the competent body shall take into account the length of time recognized in accordance with paragraph 1 of the present Article.

3. If the competent body under paragraph 2 of the present Article disregards the length of time recognized under paragraph 1 of the present Article, the injured party may request that the court referred to in Article 527, paragraph 1, of the present Code confirm that the recognition of this time is carried out in accordance with the law. The claim shall be filed against the competent body which disputes the period of service and the competent public entity in the field of judicial affairs.
4. On request of the body where the right under paragraph 2 of the present Article is exercised, the contribution prescribed for the period recognized under paragraph 1 of the present Article shall be paid out of budgetary resources.
5. The length of time of insurance coverage recognized under paragraph 1 of the present Article shall be included entirely as pensionable employment.

**CHAPTER XXXVII
PROCEEDINGS FOR ISSUING WANTED NOTICES AND PUBLIC
ANNOUNCEMENTS**

**Article 534
Search for the address of the defendant**

If the permanent or current residence of a defendant is not known, the court shall, whenever so required by the provisions of the present Code, request the police to locate the defendant and inform the court of his or her address.

**Article 535
Conditions for issuance of a wanted notice**

1. Wanted notice may be ordered when the defendant against whom proceedings have been initiated for an offence prosecuted *ex officio* and punishable by imprisonment of at least two (2) years is in flight and when an order for his or her arrest or a ruling on the determination of his or her detention on remand has been issued.
2. Wanted notice shall be ordered by the court conducting criminal proceedings. During the pre-trial proceedings such notice shall be ordered by the pre-trial judge on the motion of the state prosecutor.
3. Wanted notice shall also be ordered where a defendant has escaped from the institution in which he or she is serving his or her punishment, irrespective of the amount of punishment, or when he or she escapes from the institution in which he or she is serving an institutional measure connected with the deprivation of liberty. In this case the order shall be issued by the director of the institution.
4. International wanted notice may be requested in any of the situations provided for by the present Article, by the respective authority when the wanted person is not in Kosovo or when there are evidence that such person resides outside of Kosovo.
5. The request of the court or director of the institution for issuing international wanted notice should be sent to the competent authority for issuing and dissemination thereof.
6. The order of the court or the director of the institution to issue a wanted notice shall be sent to the police for execution.

7. Police shall keep records of issued wanted notices. Data about the persons against whom a wanted notice is issued shall be deleted from the records as soon as the competent authority has revoked the wanted notice.

Article 536

Public announcements

1. Where information is needed about particular objects connected with a criminal offence or where it is necessary to find such objects and, in particular, where that is necessary for establishing the identity of an unidentified body, the competent authority conducting the proceedings shall order the issuance of an announcement with a request that information and reports be delivered to the competent authority conducting the proceedings.
2. The police may publish photographs of bodies and missing persons if there are grounds to suspect that the death or disappearance of these persons has been caused by the commission of a criminal offence.

Article 537

Revocation of wanted notice or public announcement

1. The authority which has ordered the issuance of a wanted notice, an international wanted notice or an announcement shall revoke it as soon as the person or the object sought is found, when the period of statutory limitation expires for criminal prosecution or the execution of a punishment, or when for other reasons the wanted notice or the announcement are no longer necessary.
2. The order for revocation of wanted notice, international wanted notice or public announcement shall be sent to the competent authority which should ensure their immediate annulment.

Article 538

Announcement of the wanted notice or request for information from the public

1. The wanted notice and public announcement shall be announced by the competent public entity in the field of internal affairs.
2. The news media may also be used to inform the public of the wanted notice or announcement.
3. The competent authority may also announce an international wanted notice through international channels.
4. Upon the request of a foreign authority, the competent entity in the field of internal affairs may distribute a wanted notice for a person suspected of being in Kosovo, provided the foreign authority states in the request that it will request the extradition of such person if he or she is found.
5. The provisions of the present Article shall apply *mutatis mutandis* to cases when police announce the search for persons or objects.

**PART SIX
TRANSITIONAL AND FINAL PROVISIONS**

**CHAPTER XXXVIII
TRANSITIONAL AND FINAL PROVISIONS**

Article 539

**Code into Force for Criminal Proceedings Initiated after Entry into Force
of the present Code**

Any criminal proceeding initiated after the present Code enters into force shall be fully compliant with the terms of the present Code.

Article 540

**Application of the present Code in criminal proceedings initiated prior to its
entry into force**

For any criminal proceeding initiated prior to the entry into force of the present Code, but without an indictment filed, the provisions of the present code shall be applied *mutatis mutandis*.

Article 541

**Indictments or Summary Indictments Filed Prior to Entry into Force
of the Present Code**

1. Criminal proceedings in which indictment has been filed but was not confirmed before the entry into force of the present code, shall not be confirmed according to provisions of the code that was in force at the time when the indictment was filed, but will be processed based on provisions of the present Code.
2. Criminal proceedings in which the indictment has been confirmed with a final decision, before the entry into force of the present Code, and proceedings in which proposal indictment was filed, shall be concluded based on provisions of the present Code.

Article 542

Application of Time Limits

Upon the entry into force of the present Code, if any prescribed period of time is running, such period shall be counted pursuant to the provisions of the present Code, except if the previous period of time was longer or the provisions of the present Chapter provide otherwise.

Article 543

Continuation of Private Prosecution

1. For criminal offences for which the perpetrator is prosecuted by a private prosecutor or subsidiary prosecutor, such criminal proceedings shall be continued within the General Department of the competent Basic Court.

Criminal laws

2. For criminal proceedings under paragraph 1 of the present Article, the prosecution shall be conducted under the Kosovo Code of Criminal Procedure, applied *mutatis mutandis*.

Article 544

Application of Law upon Rehearing

After the entry into force of the present Code, if on the occasion of an appeal or an extraordinary legal remedy the judgment is annulled, the main trial shall be conducted *mutatis mutandis* under the previous code.

Article 545

Applicability of Transitional Provisions

1. The determination of whether to use the present code of criminal procedure shall be based upon the date of the filing of indictment. Acts which took place prior to the entry into force of the present code shall be subject to the present Code if the criminal proceeding investigating and prosecuting that act was initiated after the entry into force of this code.
2. Provisions in the Kosovo Code of Criminal Procedure shall cease to have effect upon the entry into force of the present Code, except as applicable subject to the present Chapter.

Article 546

Implementation of Present Code

The Kosovo Judicial Counsel, Kosovo Prosecutorial Counsel, and Ministry of Justice may issue Administrative Regulations for the implementation of the present Code in the areas of their competencies.

Article 547

Entry into Force

The present Code shall enter into force on 1 January 2013.

**Code No. 04/L-123
13 December 2012**

Promulgated by Decree No.DL-057-2012, dated 21.12.2012, President of the Republic of Kosovo Atifete Jahjaga.

**OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 37 / 28
DECEMBER 2012, PRISTINA**

**LAW No. 03/L-196
ON THE PREVENTION OF MONEY LAUNDERING
AND TERRORIST FINANCING**

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Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Adopts:

**LAW ON THE PREVENTION OF MONEY LAUNDERING
AND TERRORIST FINANCING**

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose**

1. This Law shall stipulate measures, competent authorities and procedures for detecting and preventing money laundering and terrorist financing.
2. In order to effectively combat money laundering and terrorist financing in Kosovo, this Law also establishes the FIU.

**Article 2
Definitions**

1. Terms used in this Law have the following meaning:
 - 1.1. **Bank-** an entity defined as a bank in the Law on the Central Bank of the Republic of Kosovo.
 - 1.2. **Beneficial owner-** the natural person who ultimately owns or controls a customer or an account, the person on whose behalf a transaction is being

- conducted, or the person who ultimately exercises effective control over a legal person or arrangement,
- 1.3. **Business organization-** the meaning given in Article 2 of the Law on Business Organizations (02/L-123).
 - 1.4. **Business relationship-** a business, professional or commercial relationship which is connected with the professional activities of a reporting subject and which is expected, at the time when the contract is established, to have an element of duration
 - 1.5. **BPK Regulation-** UNMIK Regulation No. 1999/20 of 15 November 1999, as amended, on the Banking and Payments Authority of Kosovo.
 - 1.6. **Casino-** a premise destined for organizing the games of chance, which shall be organized in tables for play with balls, cubes or cards;
 - 1.7. **CBK-** the Central Bank of the Republic of Kosovo;
 - 1.8. **Certified accountant-** an accountant certified by a professional accounting association in accordance with section 6 of UNMIK Regulation No. 2001/30 of 29 October 2001 on the Establishment of the Kosovo Board on Standards for Financial Reporting and a Regime for Financial Reporting of Business Organizations;
 - 1.9. **Client-** a person or entity which conducts a transaction with or uses the services of a bank, financial institution, lawyer, certified accountant, licensed auditor or tax advisor. The term “client” includes any owner or beneficiary or other person or entity on whose behalf the transaction is conducted or the services are received;
 - 1.10. **Covered professional-** lawyers, notaries, certified accountants and licensed auditors, or tax advisor;
 - 1.11. **Currency-** an exchange mean in form of a coin and a banknote, which circulates as a means of exchange;
 - 1.12. **Entity-** a natural or legal entity that exists in a legally-recognized form, including but not limited to: a legal person, a business organization, an NGO, a political party, a trust, a socially-owned enterprise and a publicly-owned enterprise;
 - 1.13. **FATF-** the “Financial Action Task Force” which means the unit for prevention of money laundry;
 - 1.14. **FIU-** the Financial Intelligence Unit of Republic of Kosovo established according to Article 4 of this Law;
 - 1.15. **Financial institution-** a person or entity that conducts one or more of the activities for or on behalf of a customer including activities shown below:
 - 1.15.1. lending, including but not limited to consumer credit; mortgage credit; factoring (business for buying cheques, obligations etc), with or without recourse; and finance of commercial transactions, including forfeiting;
 - 1.15.2. financial leasing, except financial leasing arrangements related to consumer products;
 - 1.15.3. transfer of currency or monetary instruments, by any means, including by an informal money transfer system or by a network of persons or entities which facilitate the transfer of money outside of

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the conventional financial institutions system;

- 1.15.4. money and currency changing;
- 1.15.5. issuing and managing means of payment, including but not limited to credit and debit cards, cheques, traveler's cheques, money orders and bankers' drafts, or electronic money;
- 1.15.6. financial guarantees and commitments;
- 1.15.7. trading on behalf of other persons or entities in one or more of the following:
 - 1.15.7.1. money market instruments, cheques, bills, certificates of deposit, derivative products (coming from another activity etc);
 - 1.15.7.2. foreign exchange;
 - 1.15.7.3. exchange, interest rate and index instruments;
 - 1.15.7.4. transferable securities; and
 - 1.15.7.5. commodity futures trading;
- 1.15.8. individual and/or collective portfolio management;
- 1.15.9. participation in securities issues and the provision of financial services related to such issues;
- 1.15.10. safekeeping and administration of cash or liquid securities on behalf of other;
- 1.15.11. otherwise investing, administering or managing funds or money on behalf of other persons;
- 1.15.12. acting as an insurance company, life insurance company or intermediary of life insurances as defined in Article 1 of UNMIK Regulation No. 2001/25 of 5 October 2001 on Licensing, Supervision and Regulation of Companies and Insurance Intermediaries; and
- 1.15.13. acting as a fiduciary as defined in section 1 of UNMIK Regulation No. 2001/35 of 22 December 2001 on Pensions in Kosovo;
- 1.16. **Freezing-** prohibiting the transfer, conversion, disposition or movement of funds or other property on the basis of, and for the duration of the validity of, a decision of a judicial or other competent authority. The frozen funds or other property shall remain the property of the persons or entities that held an interest in the specific funds or other property at the time of freezing, and may continue to be administered by the financial institution”;
- 1.17. **Licensed object of games of chance-** any premise where games of chance are organized and it can include but not limit to any hotel annex and spaces accompanied to it, retail selling points, warehouse or any other additional form of business property of or managed by the company licensed for games of chance and being a part of the general operation. This term includes also the sports bet subjects;
- 1.18. **Immovable property-** land, buildings and apartments;
- 1.19. **Immovable property right-** a right pertaining to immovable property, including ownership, mortgages, servitudes and rights of use of socially owned, publicly-owned and state-owned property;
- 1.20. **Lawyer-** any person who is enlisted in Bar Register in accordance with the Law on the Bar (03/L-117)

- 1.21. **Licensed auditor-** a person licensed as an auditor pursuant to section 1 of UNMIK Regulation No. 2001/30 of 29 October 2001 on the Establishment of the Kosovo Board on Standards for Financial Reporting and a Regime for Financial Reporting of Business Organizations;
- 1.22. **Monetary instruments-** currency, travellers' cheques, personal Cheques, bank cheques, payment orders, money orders, cashier's cheques of any Description, and/or investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;
- 1.23. **Money laundering-** any conduct for the purpose of disguising the origin of money or other property obtained by an offence and shall include:
 - 1.23.1. conversion or any transfer of money or other property derived from criminal activity;
 - 1.23.2. concealment or disguise of the true nature, origin, location, movement, disposition, ownership or rights with respect to money or other property derived from criminal activity.
- 1.24. **Notary-** in accordance with article 2.2 of the Law no. 03/L-10 on Notary is a professional lawyer, public official, appointed by the Ministry of Justice to perform the activities defined by the law.
- 1.25. **Non-Governmental Organization- (or "NGO")** in accordance with article 2 of the Law No 03/L-134 on Freedom of Association in Non-Governmental Organisations means any domestic association and foundation, as defined in Article 5 of this Law, or any foreign or international organization as defined in Article 7 of this Law.
- 1.26. **Politically Exposed Person-** any person who is or has been entrusted with prominent public functions in any country, as well as members of such person's family or those closely associated with him/her.
- 1.27. **Police-** the Kosovo Police Force; according to article 3 of the Law on Police Nr. 03/L-035.
- 1.28. **Predicate criminal offence-** any offence, which generates proceeds of crime.
- 1.29. **Proceeds of crime-** any property derived directly or indirectly from a predicate criminal offence. Property derived indirectly from a predicate criminal offence includes property into which any property directly derived from the predicate criminal offence was later converted, transformed or intermingled, as well as income, capital or other economic gains derived or realized from such property at any time since the commission of the predicate criminal offence;
- 1.30. **Property or Funds-** assets of every kind, whether corporeal or incorporeal, movable or immovable, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets, including but not limited to bank credits, traveler's cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit, and any interest, dividends or other income on or value accruing from or generated by such assets;
- 1.31. **Religious institutions-** all religions and their communities in Kosovo according to Article 5.4 of the UNMIK Regulation 2006/48 On the

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Promulgation of the Law on Freedom of Religion in Kosovo adopted by the Assembly of Kosovo.

- 1.32. **Reporting subject-** means a person or entity required to make reports to the FIU, as are defined in Article 16 of this Law.
- 1.33. **Seizing-** prohibiting the transfer, conversion, disposition or movement of funds or other property on the basis of, and for the duration of the validity of, a decision of a judicial or other competent authority. The seized funds or other property shall remain the property of the person or entities that held an interest in the specific funds or other property at the time of seizure, but shall be administered by the judicial or other competent authority;
- 1.34. **Shell bank-** a bank, or an institution engaged in equivalent activities, established in a Country where it has no physical presence, which makes possible to exercise an actual direction and management without being affiliated with any regulated financial group;
- 1.35. **Suspicious act or transaction-** an act or transaction that generates a reasonable suspicion that the property involved in the act or transaction is proceeds of crime and shall be interpreted in line with any guidance issued by the FIU on suspicious acts or transactions;
- 1.36. **Terrorist financing-** the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 112 and 113 of the Criminal Code of Kosovo and within the specific definitions provided by FATF in the Special Recommendation II.
- 1.37. **Payable through -** correspondent accounts used directly by a third party to transact business in their own behalf.
- 1.38. **Wire transfer-** any transaction carried out on behalf of an originator person both natural and legal through a financial institution by electronic means with a view to making an amount of money available to beneficiary person at another financial institution.
- 1.39. **Management Board-** the board comprised of the members from different institutions who shall oversee the work and ensure the independence of the FIU.

Article 3 **Special Prosecution Office**

The crimes listed in Article 26, 27 and 28 of this Law, fall within the exclusive competence of the Special Prosecution Office of the Republic of Kosovo established by Law No 03/L-052 on the Special Prosecution Office of the Republic of Kosovo.

CHAPTER II THE FINANCIAL INTELLIGENCE UNIT

Article 4 Status of the FIU

In order to effectively combat money laundering and terrorist financing in Kosovo, this Law also establishes the FIU within the Ministry of Finance and Economy (MFE) as a central independent national institution responsible for requesting, receiving, analyzing and disseminating to the competent authorities, disclosures of information which concern potential money laundering and terrorist financing.

Article 5 The Management Board

1. Through promulgation of this law by the Assembly of Kosovo the Management Board (“the Board”) of the Financial Intelligence Unit is established. The Board shall oversee and ensure independence of the FIU. The Board has no executive or enforcement powers vis a vis the FIU.
2. The Management Board is comprised of the Minister of Economy and Finance who shall serve as the Chair of the Board. Other members of the Board shall include, ex officio, the Minister of Internal Affairs, the Chief Prosecutor of Kosovo, the Director-General of the Kosovo Police, the Director of the Tax Administration, the Director-General of the Customs of Kosovo, the Managing Director of the Central Bank of the Republic of Kosovo.
3. The Board shall meet at least twice a year.

Article 6 Duties and Competences of the Board

1. The Board is authorized to:
 - 1.1. review, approve and reject the reports of the FIU prepared according to paragraph 1 Article 10 of this law. If the Board rejects such a report, it shall provide the Director of the FIU with a detailed written explanation of the reasons for such rejection and a clear indication of the deficiencies that must be corrected;
 - 1.2. oversee and periodically assess the performance of the Director of the FIU;
 - 1.3. appoints and/or dismisses the Director of the FIU;
 - 1.4. determine the budget of the FIU upon proposal of the Director FIU;
 - 1.5. control and oversee the wealth stated by the Director of the FIU and the conflict of interest cases, in accordance with the rules and procedure foreseen by the Law Preventing Conflict of Interest in Exercising Public Function, Law on Declaration of Assets and Gifts of the Senior Public Officials and other relevant articles of the legislation in Kosovo.

Article 7
No interference

The Board has no right to interfere in any way in FIU ongoing cases.

Article 8
Organization of the Board and Decision-making Procedures

1. The Chair shall represent the Board in public and shall appoint an MFE Official to serve as the Secretary of the Board.
2. The Board shall make decisions by majority vote. The Board shall have a quorum to make a decision if at least five (5) Board members are present at a duly called and noticed meeting at the time the decision is made.
3. If it becomes necessary for the Board to meet in the absence of the Chair, the Minister of Interior shall chair the meeting.
4. The Board shall prepare and adopt its own rules and procedures.

Article 9
Competencies of the Chairman

1. The Chairman shall be responsible for:
 - 1.1. performing all functions vested in him/her by law and delegated to him/her by the Board;
 - 1.2. conducting the ordinary business of the Board in accordance with any decisions or instructions duly adopted by the Board; and

Article 10
Competencies and Responsibilities of the Director FIU vis a vis the Board

1. Fifteen (15) days prior to each Board meeting once a year, the Director of the FIU shall provide each and every member of the Board with an up-to-date written report summarizing:
 - 1.1. the administrative, executive, and regulatory activities and decisions of the FIU;
 - 1.2. all aspects of the financial management, revenues and expenditures of the FIU. If a majority of the members of the Board determine that there are reasons to believe that the FIU is not complying or has not complied with one or more provisions of the present law or another normative act applicable in Kosovo, the Board shall refer the respective matter of non-compliance to the Auditor General of Kosovo and request him/her to carry out an audit, which shall be presented to the Assembly of Kosovo;
 - 1.3. the FIU director is not under any obligation to disclose any information which could jeopardize the operational side of the work of the FIU.

Article 11
Director of the FIU

1. The FIU is headed by a Director who is responsible for directing and managing the FIU.
2. The Director of the FIU shall appoint a senior official from within the FIU to replace him in times of absence and/or in case of the Director's non-ability to perform his/her duties.
3. The Director of the FIU shall be appointed by the Board, upon proposal of the Ministry of Finance and Economy, on the basis of demonstrated knowledge, professionalism and experience and must:
 - 3.1. be a person with high moral integrity and professionalism;
 - 3.2. have a university degree in a relevant field of expertise;
 - 3.3. have at least five (5) years of substantial relevant professional experience;
 - 3.4. not:
 - 3.4.1. hold a political position in the Government of the Republic of Kosovo, the Assembly of Kosovo, a local authority, political party or a trade union;
 - 3.4.2. have a direct or indirect interest in a "reporting subject";
 - 3.4.3. have a conflict of interest according to the Law on Conflict of Interest.
4. The Minister of Economy and Finance shall ensure open and transparent selection process of the Director, according to the procedures set in Article 12 of this law.
5. No person may become or remain a Director if he/she has been convicted of a crime which is punishable by a sentence of imprisonment of six (6) months or more.
6. For the purpose of clarity, the Director of the FIU shall be an "official" in compliance with the Law on Conflict of Interests.
7. The mandate has duration of three (3) years and can be renewed.
8. Six (6) months prior to expiration of the mandate of the serving Director, the Ministry of Finance and Economy shall initiate the procedure for the selection of new Director through an open, public, impartial and transparent selection and interviewing process for candidates including:
 - 8.1. widely publicizing the vacancy with details of the post, its location, job description, salary, duration of contract, a brief description of the qualifications, skills, expertise and personal qualities required and a clear explanation of the application and selection procedures which will be followed;
 - 8.2. ensuring that the selection procedure is open, competitive, non-discriminatory, fair, objective and transparent based upon a pre-determined set of essential qualifications and skills.

Article 12
Selection procedures for the Director of the FIU

1. The MFE shall make a pre-selection of most suitable candidates that best meet the criteria established by the Law and shall shortlist at least two (2) candidates.

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2. The MFE shall submit to Board the names of the short listed candidates with a report detailing based on which criteria the pre selection took place.
3. The Board appoints the Director of the FIU among the short listed candidates by the MFE.

Article 13

Dismissal and suspension of Director of the FIU

1. The Director of the FIU may be dismissed through the same process by which he or she was appointed.
2. The Director of the FIU may be dismissed:
 - 2.1. if he is convicted of a criminal act;
 - 2.2. as a result of permanent loss of the ability to perform his job for a period of more than three (3) months;
 - 2.3. if he/she is found to have exercised the duties of the office in contravention of the law or in a manner likely to bring the FIU into public or judicial disrepute because of serious professional misconduct or grossly improper personal behavior.
3. The Director of the FIU may be suspended:
 - 3.1. if he/she does not seek the prior approval of the Managing Board before joining any organization or group; failure to report may be grounds for suspension of the FIU Director.
 - 3.2. if he/she holds any other employment during their tenure as the FIU Director.
 - 3.3. if he/she is engaged in any industrial action or any other form of collective work stoppage.
 - 3.4. if he/she without the prior agreement of the Management Board, gives public statements or otherwise comments on the work of the FIU, or in any case provides information to unauthorized persons on data, documents, contacts, intentions, knowledge or personnel of the FIU.
 - 3.5. if he/she pursues or accepts any gain, benefit, monetary advantage, or illegal service for themselves or others, other than those provided by this Law.
 - 3.6. if he/she violates any of the provisions of this Article or of this Law which otherwise shall be considered grounds for suspension and/or termination of employment pursuant to this Law.

Article 14

Duties and Competencies of the FIU

1. The FIU is authorized to receive and proceed:
 - 1.1. receive and analyze reports and information:
 - 1.1.1. made or kept under Articles 16 to 28 of this law,
 - 1.1.2. provided to the FIU by bodies from FIU foreign countries with similar functions, from courts or responsible authorities for implementation of the law including intergovernmental and international organization the public or governmental bodies, and

- 1.1.3. voluntarily provided to the FIU concerning suspicions of money laundering or of the financing of terrorist activities;
- 1.2. collect information that is relevant to money laundering activities or the financing of terrorist activities and that is publicly available (including through commercially available databases);
- 1.3. for purposes of analyzing suspected money laundering or financing of terrorist activities, request and receive records, documents and information from public or governmental bodies or any international or intergovernmental body or organization (in Kosovo) concerning a person, entity, property or transaction;
- 1.4. and requires data, documents and information related to specific requests of data or analyses from legal obligators, which should be offered precisely for inspection by FIU and to allow their coping and reproduction, only for the use of a unit. Legal obligators who refuse such requests should within three (3) days be informed about the request of FIU, send it in written their reasons for refusal. After this, the FIU shall decide and notify the legal obligor whether he/she is or is not in compliance with obligations foreseen in this provision.
- 1.5. the FIU and other bodies and institutions in Kosovo shall be obliged to mutually cooperate and assist one another in performing their duties and shall coordinate activities within their competence, consistent with the applicable laws.
- 1.6. create and maintain a database of all information collected or received relating to suspected money laundering or financing of terrorist activities and such other materials as are relevant to the work of the FIU;
- 1.7. may, spontaneously or upon request, share information with any foreign counterpart agency that performs similar functions and is subject to similar confidentiality obligations, regardless of the nature of the agency, subject to reciprocity. The information provided shall be used only with the consent of the agency and only for the purposes of combating money laundering, predicate offences and financing of terrorism;
- 1.8. compile statistics and records and based thereon make recommendations to the Minister of Economy and Finance the Minister of Justice, the police, the Kosovo Customs in Kosovo and/or other relevant persons or bodies regarding measures which may be taken and legislation which may be adopted to combat money laundering and the financing of terrorist activities;
- 1.9. make such reports public as will be helpful in carrying out its tasks;
- 1.10. organize and/or conduct training regarding money laundering, the financing of terrorist activities and the obligations of reporting subjects;
- 1.11. disseminate, in accordance with provisions of this Article, reports and any necessary information to the relevant authorities;
- 1.12. issue administrative directives, instructions and guidance on issues related to ensuring or promoting compliance with this Law, including but not limited to:
 - 1.12.1. the use of standardized reporting forms;

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- 1.12.2. about suspicious acts or transactions, including the nature of suspicious acts or transactions for the purposes of this Law, and the development of lists of indicators of such acts and transactions;
- 1.12.3. the exemption of persons or entities or categories of persons or entities from reporting obligations under this Law and the methods of reporting such exemptions;
- 1.13. request documents and information in accordance with this Law;
- 1.14. for the purpose of sub-paragraph 1.7 of this paragraph, the FIU may enter into an agreement or arrangement with a foreign counterpart agency that perform similar functions and is subject to similar secrecy obligations;
- 1.15. issue instructions to reporting subjects in accordance with this Law including instructions not to carry out a transaction;
- 1.16. perform other functions in accordance with this Law.
- 1.17. the staff of the FIU shall be required to keep confidential any information obtained within the scope of their duties, even after the cessation of those duties within the FIU. Such information may only be used for the purposes provided for in accordance with the law.

Article 15

Disclosure and Dissemination of Information and Records by the FIU

1. The FIU may only disclose the following information, or records containing such information in accordance with paragraph 2 of this Article:
 - 1.1. any data concerning a person or entity which is a subject of a report held by the FIU that would directly or indirectly identify the person or entity, including but limited to a name or address;
 - 1.2. any identifying data concerning a transaction, including but not limited to the date, location, amount or type of property, account number, or transaction number; and
 - 1.3. any data concerning a person or entity which has provided information or records to the FIU that would directly or indirectly identify the person or entity.
2. The information referred to in paragraph 1 of this Article may be disclosed by the FIU under the following circumstances:
 - 2.1. to the appropriate unit of the police, the Financial Investigation Unit, the Kosovo Intelligence Agency, the competent prosecutor, the Kosovo Customs, the Tax Administration Department of the Ministry of Economy and Finance or KFOR, if the information would be relevant to investigations within its competence, or to a body outside Kosovo with similar functions to the FIU;
 - 2.2. to a public or governmental body of the Republic of Kosovo if such disclosure of information is necessary for the FIU.
 - 2.3. to bodies responsible for law enforcement, or performing a similar role to the FIU, outside Kosovo, if such disclosure is necessary or of assistance to the FIU in performing its functions;
3. All the data, information and records are disclosed by the FIU for intelligence

purposes only, in order to provide a ground basis for investigations. They cannot be utilized as evidence before a Court unless the prior written approval of the Director, who will authorize such disclosure only in case there are no other possibilities for the law enforcement, bodies to obtain the relevant evidences elsewhere and/or in another way.

CHAPTER III REPORTING SUBJECTS

Article 16

1. Reporting subjects shall mean:
 - 1.1. Banks
 - 1.2. Financial institutions
 - 1.3. Casinos, including internet casinos.
 - 1.4. Real estate agents and real estate brokers.
 - 1.5. Natural or legal persons trading in goods when receiving payment in cash in an amount of ten thousand (10, 000) Euro or more.
 - 1.6. Lawyers and notaries (accountants) when they prepare for, carry out or engage in transactions for their client concerning the following activities:
 - 1.6.1. buying and selling of real estate,
 - 1.6.2. managing of client money, securities or other assets,
 - 1.6.3. management of bank, savings or securities accounts,
 - 1.6.4. organization of contributions for the creation, operation or management of companies, or
 - 1.6.5. Creation, operation or management of legal persons or arrangements, and buying and selling of business entities.
 - 1.7. Certified accountants and licensed auditors and tax advisers.
 - 1.8. Trust and company service providers that are not covered elsewhere in this law, providing the following services to third parties on a commercial basis:
 - 1.8.1. acting as a formation agent of legal persons;
 - 1.8.2. acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - 1.8.3. providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - 1.8.4. acting as, or arranging for another person to act as, a trustee of an express trust;
 - 1.8.5. acting as, or arranging for another person to act as, a nominee shareholder for another person

Article 17 Customer Due Diligence

1. Customer due diligence means:

- 1.1. identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;
- 1.2. identifying, where applicable, the beneficial owner and taking risk-based and adequate measures to verify his or her identity so that the institution or person defined in this law is satisfied that it knows who the beneficial owner is, including, as regards to legal persons, trusts and similar legal arrangements, taking risk-based and adequate measures to understand the ownership and control structure of the customer;
- 1.3. obtaining information on the purpose and intended nature of the business relationship;
- 1.4. conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's or person's knowledge of the customer, the business and risk profile, including, where necessary, the source of funds and ensuring that the documents, data or information held are kept up-to-date. Competent supervisory authority may approve regulation that defined these requests in details.
2. All reporting subjects shall identify their customers and verify their identities by means of reliable independent source, documents, data or information, when:
 - 2.1. establishing business relations;
 - 2.2. carrying out occasional transactions, when the customer wishes to carry out:
 - 2.2.1. a transaction in an amount equal to or above ten thousand (10. 000) Euro, whether conducted as a single transaction or several transactions that appears to be linked. If the amount of the transaction is unknown at the time of the operation, the identification shall be done as soon as the amount becomes known or the threshold is reached, or
 - 2.2.2. a domestic or international wire transfer of funds;
 - 2.2.3. doubts exist about the veracity or adequacy of previously obtained customer identification data;
 - 2.3. there is a suspicion of money laundering or financing of terrorism.
3. A natural person shall be identified by presentation of an original, unexpired official document that bears a photograph of such person. The person's address and date of birth shall be verified by the presentation of a document or documents capable of providing proof thereof.
4. The identity of any entity shall be verified by the presentation of:
 - 4.1. a business registration certificate issued pursuant to the Law on Business organizations (02/L-123);
 - 4.2. an NGO registration certificate issued pursuant to Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134);
 - 4.3. evidence of Registration of a political party pursuant to UNMIK Regulation No. 2004/11 of 5 May 2004 on the Registration and Operation of Political Parties in Kosovo;
5. Where an entity is not a business organization, NGO or political party, any other

document or documents which enables the verification of the identity of the entity, legal form, address, directors, and provisions regulating the power of agents, officers or directors to bind the entity.”

6. Reporting subjects should keep data for following information and should ensure that the documentation and following information are ready and available to FIU, and to other competent authorities:
 - 6.1. copies of documents that attest the identity of a client, property holders, taken in compliance with this Article, file’s accounts and business correspondence, for at least five (5) last years, upon termination of business relation; and
 - 6.2. information taken in compliance with provisions of this law, to enable reconstruction of transactions, which are executed or tried to be executed, by clients and written reports established in compliance with Article 20 of this law, for at least five (5) years after the attempt for execution of execution of a transaction.

Article 18 **Identification of Clients**

1. Banks and financial institution are prohibited from keeping anonymous accounts.
2. Banks and financial institutions shall verify the name and address, and, in the case of persons, the date of birth, of all clients before:
 - 2.1. opening an account;
 - 2.2. taking stocks, bonds, or other securities into safe custody;
 - 2.3. granting safe-deposit facilities;
 - 2.4. otherwise establishing a business relationship; or
 - 2.5. engaging in any single transaction in currency of more than € ten thousand (10,000). Multiple currency transactions shall be treated as a single transaction if the bank or financial institution has knowledge that the transactions are conducted by or on behalf of one person or entity and total more than € ten thousand (10,000) in a single day.
3. A person engaging in a transaction under paragraph 3 Article 17 of this law shall certify in writing to the bank or financial institution, in a format specified by CBK, that he or she is acting:
 - 3.1. on his and her own behalf as both the owner and the beneficiary of any property that is the subject of the transaction; or
 - 3.2. as an authorized agent of one or more persons or entities identified pursuant to paragraph 4 and 5 Article 17 of this law, having taken reasonable steps to verify that each identified person or entity is the owner or the beneficiary of any property that is the subject of the transaction, and believing in good faith that each identified person or entity is the owner and/or beneficiary of any property that is the subject of the transaction.
4. Any person acting as an authorized agent shall present documents in accordance with paragraph 3 and 4 Article 17 of this law for him/herself and for the authorizing person or entity and shall provide a document authorizing him or her to conduct transactions on behalf of such person or entity.

5. Notwithstanding compliance with paragraph 3 and 4 Article 17 of this law, a bank or financial institution shall take any additional reasonable measure necessary to identify every person and entity on behalf of which a person engaging in a transaction under paragraph 4 Article 17 of this law is acting, including the owner and beneficiary of the property.
6. If a bank or financial institution is unable to verify the identity of a client, the business relationship shall be terminated, any account closed and the property returned to its source. Such actions shall be without prejudice to the obligation of the bank or financial institution to report suspicious acts or transactions pursuant to article 21.1 and to report additional material information pursuant to article 21.2.
7. Banks and financial institutions shall make copies of all documents which shall be presented under paragraph 3 and 4 Article 17 of this law and shall retain them for at least five (5) years after the account has been closed or the relations with the client have ended, whichever is later.

Article 19 **Wire transfers**

1. Banks and financial institutions whose activities include wire transfers shall obtain and verify the full name, account number, the address, or in absence of address the national identity number or date and place of birth, including when necessary the name of the financial institution, of the originator of such transfers. The information shall be included in the message or payment form accompanying the transfer. If there is no account number, a unique reference number shall accompany the transfer.
2. Banks and financial institutions shall maintain all such information and transmit it when they act as intermediaries in chain of payments.
3. The competent authority may issue regulations regarding cross – border transfers executed as batch transfers and domestic transfers.
4. Paragraphs 1 and 2 of this Article shall apply to transfers executed as a result of credit card or debit card transactions, provided that the credit card or debit card number accompanies the transfer resulting from the transaction, nor shall they apply to transfers between banks and/or financial institutions where both the originator and the beneficiary are banks or financial institutions acting on their own behalf.
5. If the banks or the financial institutions receive wire transfers that do not contain the complete originator information they shall take measures to obtain and verify the missing information from the ordering institution or the beneficiary, should they not obtain the missing information they shall refuse acceptance of the transfer and report it to the FIU.

Article 20 **Special monitoring of certain transactions**

1. Reporting subjects shall pay special attention to all complex, unusual large transactions and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose.

2. Reporting subjects shall pay special attention to business relations and transactions with persons, including legal persons and arrangements, from or in countries that do not or insufficiently apply the relevant international standards to combat money laundering and financing of terrorism.
3. Reporting Subjects shall set forth in writing the specific information regarding transactions as referred to in paragraphs 1 and 2 of this Article and the identity of all parties involved. The report shall be maintained as specified in this Law and shall be made available if requested by the FIU, a supervisory authority and other competent authorities.

Article 21 **Enhanced due diligence**

1.
 1. The reporting subjects should apply enhanced due diligence of customers in the presence of a higher risk of money laundering or terrorist financing and, anyway, in the cases mentioned in paragraphs 2, 4 and 5 of this Article.
2. When the customer is not “physically present”, the institutions and persons subject to this law shall take specific and adequate measures to offset the higher risk by taking one or more among the measures below:
 - 2.1. verify the identity of the customer through documents, data or information;
 - 2.2. take additional measures to verify or certify the documents supplied, or requiring confirmatory certification by a credit institution or financial institution covered by this law;
 - 2.3. ensuring that the first payment of the operations is carried out through an account opened in the customer’s name in a credit institution.
3. The requirements for identification and customer due diligence is deemed to be fulfilled, even without the physical presence of the customer, in the following cases:
 - 3.1. if the customer is already identified in relation to an ongoing bank relationship, provided that the existing information are updated;
 - 3.2. operations are carried out by systems of night saves or ATMs, through correspondence or entities engaged in transport of valuables or through credit/debit cards; such transactions are charged to the owner of the account whom they relate to;
 - 3.3. for customers whose identification data and other information are to be acquired by a public or private deed or authenticated by qualified certificates used to generate a digital signature associated with electronic documents;
4. In case of banking relationships with entities belonging from other Countries, the banks and credit institutions must:
 - 4.1. gather sufficient information in order to fully understand the nature of its business and to determine, based on public registers, lists, documents or records knowable by anyone, its reputation and quality of supervision to which it is subjected;
 - 4.2. assess the quality of controls in relation to combat money laundering or the financing of terrorism to which the corresponding entity is subjected;

- 4.3. obtain approval of the Director-General, to his designated person or employee performing an equivalent functions before establishing new banking relationships;
 - 4.4. define in writing the terms of the agreement with the institution and their corresponding obligations;
 - 4.5. ensure that the credit institution has verified the identity of customers who directly access the transitory accounts, which has consistently fulfilled the requirements of adequate verification of clients and that, upon request, the intermediary can provide the financial counterpart data obtained as a result of the performance of such obligations.
5. With regard to transactions, relationships or services provided by politically exposed persons residing out of the Republic of Kosovo, the reporting subjects must:
- 5.1. have appropriate risk-based procedures to determine whether the customer is a person politically exposed;
 - 5.2. obtain approval of the Director-General, to his designated person or employee performing an equivalent function before starting a relationship with such customers;
 - 5.3. take adequate measures to establish the origin of the assets and funds used in relationship or transaction;
 - 5.4. ensure continuous and strengthened monitoring of the bank relationship or the spot operation.
6. Financial intermediaries can not open or maintain correspondent accounts with a shell bank or a bank which is known to allow a bank to be used by shell their accounts.
7. The institutions and persons subject to this law shall pay particular attention to any risk of money laundering or terrorist financing related to products or transactions to promote anonymity and take any measures necessary to prevent its use for purposes of money laundering or terrorist financing.

Article 22

Banks and financial institutions: reporting to FIU

1. Banks and financial institutions shall report to the FIU, in the manner and in the format specified by the FIU:
 - 1.1. all suspicious acts or transactions within twenty four (24) hours of the time the act or transaction was identified as suspicious;
 - 1.2. all single transactions in currency of € ten thousand (10,000) or more. Multiple transactions shall be treated as a single transaction if the bank or financial institution has knowledge that the transactions are by or on behalf of one person or entity and total more than € ten thousand (10,000) in a single day.
2. Banks and financial institutions shall continue to report to the FIU any additional material information regarding the transaction(s) that is acquired by the bank or financial institution after the report under paragraph 1 Article 21 of this law.
3. The FIU may exempt, either on written application or on its own initiative, certain

transactions or categories of transactions from the obligations under paragraph 1 Article 21 of this law, where the transactions or category of transactions are routine and serve a legitimate purpose, or are otherwise not of interest to the mandate of the FIU.

4. Directors, officers, employees and agents of any bank or financial institution who make or transmit reports pursuant to the present article shall not provide the report, or communicate any information contained in the report or regarding the report, to any person or entity, including any person or entity involved in the transaction which is the subject of the report, other than the FIU or CBK, unless authorized in writing by the FIU, a Prosecutor, or a Court.
5. A bank or financial institution shall notify the FIU prior to taking any action in connection with any suspicious act or transaction, including an action under paragraph 6 Article 18 of this law, which would result in the release or transfer of the property subject to the transaction from the control of the bank or financial institution. The notification may be made orally, but such notification does not abrogate the duty to file written reports pursuant to paragraph 1 and 3 of this Article.
6. Upon notification pursuant to paragraph 5 Article 21 of this law, the FIU may instruct the bank or financial institution to suspend the taking of an action referred to in paragraph 6 Article 17 of this law in connection with a suspicious act or transaction for a maximum of forty eight (48) hours, or two (2) working days, whichever period is longer. Such suspension of an action pursuant to the present article shall not be communicated to any person or entity, including the client, without the consent of the FIU.

Article 23

Banks and Financial Institutions: Internal Programs

1. Banks and financial institutions shall appoint a contact person to be responsible for interaction and information exchange with the FIU who shall be subject of the reporting and record keeping obligations under this Law. The Bank and financial institution shall inform the Supervision Agency and the FIU of the identity of the contact person within thirty (30) days of the promulgation of this law and, thereafter, within thirty (30) days of any change in the designated contact person.
2. Banks and financial institutions shall promulgate written internal procedures and controls for the prevention and detection of money laundering and shall enforce them. Such procedures shall include, but need not be limited to, the following:
 - 2.1. a client identification procedure;
 - 2.2. a procedure for collecting information and maintaining records in accordance with this Law, and for preventing unauthorized access;
 - 2.3. a procedure for reporting to the FIU in compliance with paragraph 1 to 6 Article 22 of this law;
 - 2.4. measures to be taken by a bank or financial institution from the moment of the detection of a suspicious act or transaction to the submission of the report to the FIU in accordance with paragraph 1 to 6 Article 22 of this law;
 - 2.5. rules for processing, or taking further action in connection with, a suspicious

- Law No. 03/L-196 on the prevention of money laundering and terrorist financing act or transaction, including measures to prevent further action in connection with a suspicious act or transaction without notification to the FIU in accordance with paragraph 5 Article 22 of this law;
- 2.6. procedures for ensuring the institution and provision of an employee training program on the responsibilities set forth in the present article and the prevention of money laundering; and an audit function to test the reporting and identification system.
 3. Banks and financial institutions shall submit the procedures set forth in paragraph 2 of this Article to the FIU not later than sixty (60) days after the entry into force of this Article or thirty (30) days after the establishment of the bank or financial institution.

Article 24 **Additional Obligations of NGOs**

1. Except as provided in paragraph 3 of this Article, an NGO shall not accept any contribution in currency in excess of € one thousand (1,000) from a single source in a single day.
2. Except as provided in paragraph 3 of this Article, an NGO shall not disburse currency in excess of € five thousand (5,000) in a single day to any single recipient.
3. NGOs seeking a one-time or recurring exemption from the obligations under paragraph 1 and 2 of this Article may file a written request for exemption with the FIU setting forth the nature of the exemption sought and the reasons for it. The FIU shall respond to the request in writing within thirty (30) days, and may decide to grant, conditionally grant, or deny the exemption. If the FIU decides to grant or conditionally grant an exemption, it shall provide a copy of its decision to the competent body under Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134).
4. NGOs shall maintain accounts that document all income and disbursements. The accounts shall identify income by source, amount, and manner of payment, such as currency or payment order, and identify disbursements by recipient, intended use of funds, and manner of payment. Account documents shall be maintained for five (5) years and shall be available for inspection upon demand by the FIU and the competent body under Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134).
5. NGOs shall report any suspicious act or transaction to the FIU within three (3) business days and prior to taking further action in connection with any such act or transaction.
6. When filing an annual report pursuant to Article 18 of the Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134), an NGO shall disclose in the report:
 - 6.1. each contribution in currency during the year from a particular source, if the total value in currency of the contributions from that source during the year is in excess of € five thousand (5,000) identifying the source, amount and date of each contribution; and

- 6.2. each disbursement in currency during the year to a particular recipient if the total value in currency of disbursements to that recipient is in excess of € ten thousand (10,000), identifying the recipient, amount and date of each disbursement, and the intended use of the money.
7. When filing an annual report pursuant to Article 18 of the Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134), an NGO shall certify that it has complied with all obligations under the present article.
8. The Competent body under the Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134) may suspend or revoke the registration of an NGO for violation of any provision of the present article pursuant to Article 21 of the Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134). The imposition of such sanction shall be without prejudice to any criminal proceedings.
9. Notwithstanding any other provision of law, reports filed by NGOs pursuant to the Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134), shall be made available upon request to the FIU.

Article 25

Additional Obligations of Political Parties and Registered Candidates

1. Political parties and registered candidates shall not accept any contribution in currency in excess of € one thousand (1,000) from a single source in a single day.
2. Political parties and registered candidates shall not disburse currency in excess of € five thousand (5,000) in a single day to any single recipient.
3. Political parties shall maintain accounting books that record all income by source, amount and manner of payment, such as by currency or payment order, and all payments made by the party to any person, the purpose of the payment and the manner in which the payment was made. Accounting books shall be maintained for seven (7) years and shall be available for inspection upon demand to the FIU and the Political Party Registration Office.
4. Political Parties shall report any suspicious act or transaction to the FIU within three (3) working days and prior to taking further action in connection with such act or transaction.
5. Bi-Annual Financial reports filed pursuant to Article 19 of UNMIK Regulation No.2004/11, shall include:
 - 5.1. a record of all contributions to the registered political party from a single source if the combined value of contributions from that source has exceeded € one hundred (100) during the period covered by the report which shall indicate:
 - 5.1.1. the value of each contribution made to the political party;
 - 5.1.2. the date on which each contribution was made; and
 - 5.1.3. the full name, address and civil registration, passport or driver's license number of the contributor; and
 - 5.2. a statement identifying each payment made to another person during the period covered by the report, if the total value of all payments to that person during the period exceeds € five thousand (5,000) and indicating the purpose of the payment.

6. A political party shall certify in its Bi-annual financial report that it has complied with all obligations under this article. A candidate shall certify in his/her candidate registration form submitted to the Central Election Commission that he/she shall comply with paragraph 1 and 2 of this Article.
7. The Political Party Registration Office may investigate a political party's compliance with the present article and may suspend the registration of a political party for a violation of any provision of the present article in accordance with Article 5 of UNMIK Regulation No. 2004/11. A sanction under the present paragraph shall be without prejudice to any criminal proceedings.
8. Notwithstanding any other provision of law, reports filed by political parties pursuant to UNMIK Regulation No. 2004/11 shall be made available upon request to the FIU.

Article 26

Additional Obligations of Lawyers, Notaries, Certified Accountants, Licensed Auditors and Tax Advisors

Identification of Clients

1. Lawyers, notaries, certified accountants, licensed auditors and tax advisors (hereafter "covered professionals") shall verify the name and address, and, in the case of persons, date of birth, of every client before performing professional services for the client. Article 17 and paragraph 4, 5 and 6 of Article 18 of this law shall apply to verification and identification. If the covered professional is unable to identify a client or verify his or her identity, he or she shall not accept property from or on behalf of the client for any purpose.

Handling of Clients' property

2. When a covered professional at any time comes into possession of property on behalf of a client or third party, the covered professional shall:
 - 2.1. hold the property in an account of, or in the safekeeping of, a bank subject to the supervision of the CBK, unless the client explicitly agrees that the property should be dealt with otherwise, or the nature of the property does not permit;
 - 2.2. indicate in the title or designation of the account that the property is held on behalf of a client or clients of the covered professional;
 - 2.3. in the case of cash or liquid securities, maintain a sum in the account that at all times equals or exceeds the sum of the client's property held by the covered professional; and
 - 2.4. maintain full and accurate records, available to the client upon request, showing all dealings with the client's property and distinguishing the client's property from other property held by the covered professional.

Reporting

3. Any covered professional who, in the course of performing services for a client,

receives € ten thousand (10,000) or more in currency in a transaction or related transactions from a client, shall file a report with the FIU within fifteen (15) working days of the reportable transaction. A transaction shall also be reported if the covered professional receives the currency as an intermediary, that is, he or she intends to transfer the currency to a third party on behalf of the client. A transaction may not be divided into multiple transactions in order to avoid reporting under this article.

4. For the purposes of paragraph 3 of this Article, a “transaction” includes, but is not limited to:
 - 4.1. a sale of goods or services;
 - 4.2. a sale of real property;
 - 4.3. a sale of intangible property;
 - 4.4. a rental of real or personal property;
 - 4.5. an exchange of currency for other monetary instruments, including other currency;
 - 4.6. the payment of a pre-existing debt;
 - 4.7. a reimbursement of expenses paid;
 - 4.8. the making or repayment of a loan; or
 - 4.9. the payment of fees in currency to the covered professional for his or her services.
5. For the purposes of paragraph 3 of this Article the term “related transactions” means all transactions conducted between the client and the covered professional in a twenty four (24) hour period or all transactions conducted between the client and the covered professional during a period of more than twenty four (24) hours if the recipient knows or has reason to know that each transaction is one of a series of connected transactions. Multiple payments to a lawyer for representation in a single case are connected transactions.
6. The form and manner of the report shall be prescribed by the FIU, and shall include:
 - 6.1. the name and address, and such other identifying information as the FIU may prescribe, of the person or entity from whom the currency was received and any agent on whose behalf the person or entity is acting;
 - 6.2. the amount of currency received;
 - 6.3. the date and nature of the transaction; and
 - 6.4. such other information, including the identification of the person or entity filing the report, as the FIU may prescribe.
7. Certified accountants and licensed auditors shall report any suspicious act or transaction to the FIU within three (3) working days and prior to taking further action in connection with any such act or transaction. Reports shall be made in a form and manner prescribed by the FIU.
8. Except cases as provided in paragraph 9 of this Article, lawyers engaged in specified activities shall report any suspicious act or transaction to the FIU within three (3) working days and prior to taking further action in connection with any such act or transaction. Specified activities include:
 - 8.1. assisting or representing a client or clients in:
 - 8.1.1. buying and/or selling of immovable property or business organizations;

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- 8.1.2. handling of clients' money, securities, or other assets;
 - 8.1.3. opening or managing bank, savings or securities accounts;
 - 8.1.4. organization of contributions necessary for the creation, operation or management of companies;
 - 8.1.5. creation, operation or management of companies, trusts or similar structures; or
- 8.2. acting on behalf of or for the client in any financial or immovable property rights transaction.

Reports shall be made in a form and manner recommended by the FIU

9. A lawyer shall not, without authorization from the client or by court order, provide information he or she received from a client or obtained on a client in order to represent the client in criminal or judicial proceedings, unless the lawyer reasonably believes that the client is seeking the lawyer's advice or assistance to commit a criminal offence.
10. Records collected pursuant to this Article shall be maintained for a period of five (5) years from the date that the business relationship or representation ended. Records relevant to a suspicious act or transaction shall be maintained for a period of five (5) years from the date on which the suspicious act or transaction was reported to the FIU. To the extent possible, records maintained pursuant to the present article shall be maintained separately from files containing information subject to lawyer-client privilege.
11. Covered professionals shall ensure the training of all staff members, employees and agents in their obligations under this Law.
12. The FIU, in consultation with the Kosovo Bar Association, the Kosovo Board on Standards for Financial Reporting and any other relevant professional association of covered professionals shall establish minimum standards, written procedures and controls for the prevention and detection of money laundering by covered professionals and supervise them. These procedures shall include, but need not be limited to, the following:
 - 12.1. a client identification procedure;
 - 12.2. a procedure for collecting information and maintaining the records pursuant to this Law and for preventing unauthorized access;
 - 12.3. a procedure for reporting to the FIU in compliance with paragraph 3 to 9 Article 24 of this law;
 - 12.4. a detailed list of the indicators of a suspicious act or transaction, taking into account the particular crime problems of Kosovo and Kosovo's legal and business systems;
 - 12.5. measures to be taken by the covered professional from the moment of the detection of a suspicious act or transaction to the submission of the report to the FIU;
 - 12.6. procedures for ensuring the institution and provision of an employee training program on the obligations under present article and the prevention of money laundering;
 - 12.7. an audit function to test the reporting and identification system.

13. The Kosovo Bar Association, the Kosovo Board on Standards for Financial Reporting and any other relevant professional association of covered professionals shall inform their members of the approved procedures and other obligations and the sanctions of this Law relating to covered professionals.

Sanctions

14. A sanction imposed by the competent Bar Association, the Kosovo Board on Standards for Financial Reporting or any other relevant professional association of covered professionals for a breach of this Law shall be without prejudice to any criminal proceedings.

Article 27

Additional Obligations: Immovable Property Transactions

1. When conveyance of immovable property rights involves a transaction or transactions of a monetary amount in excess of € ten thousand (10,000) or more, each transaction shall be made by payment order or bank transfer.
2. The Municipal Cadastral Office (MCO) shall not register a transfer of immovable property rights unless it receives, in addition to the other documents that are presented in accordance with law for the registration of the transfer, a declaration, in the manner and in the format specified by the FIU, signed by the transferor and transferee that certifies:
 - 2.1. the transferor and transferee of record;
 - 2.2. the identity of any person or entity which has a financial interest in or is a beneficiary of the property being transferred, and the nature of that interest or beneficiary status;
 - 2.3. the purchase price and the manner of payment, including, if the payment is made, in whole or in part, by transfer of property other than cash, a description and an estimate of the value of the property;
 - 2.4. if the transfer is subject to paragraph 1 of this Article the financial account number or numbers from which the payment was or will be debited and to which it was or will be transferred, and the names in which the accounts are held.
3. The MCO shall maintain the declaration together with the other documents that are presented in accordance with law for the registration of the transfer. In addition, the MCO shall forward copies of all declarations received to the FIU on a monthly basis.
4. A decision by the MCO to reject registration on the grounds of failure to comply with the present article, shall be made, and may be reviewed, in accordance with Law No. 2002/5 on the Establishment of an Immovable Property Rights Register, as promulgated by UNMIK Regulation No. 2002/22 of 20 December 2002.

Article 28

Additional Obligations of Casinos and Other Gaming Houses

1. Casinos and other gaming houses (hereinafter gaming houses) are subject to the anti-money laundering and anti-terrorist financing provisions of this Law and are obligated to take specific measures to address the risk of money laundering and the financing of terrorism in providing gambling services.
2. Gaming houses shall verify the identity of a client before entering into a transaction or linked transactions to sell, purchase, transfer or exchange gambling chips, tokens or other evidence of gaming value in an amount of € two thousand (2,000) or more or the equivalent in foreign currency. The identity verification requirement also extends to financial transactions such as the opening of an account, a wire transfer or a currency exchange in the amount of € two thousand (2,000) or more or the equivalent in foreign currency. If the gaming house is not able to verify the identity of a client, it shall not enter into the transaction.
3. Gaming houses shall not engage in any of the following transactions:
 - 3.1. Exchange cash for cash with a client, or with another recipient on behalf of the client, in any transaction in which the amount of the exchange is € two thousand (2,000) or more;
 - 3.2. Issue a check or other negotiable instrument to a client, or to another recipient on behalf of the client, in exchange for cash in any transaction in which the amount of the exchange is € two thousand (2,000) or more;
 - 3.3. Transfer funds by electronic or wire transfer or other method to a client, or to another recipient on behalf of the client, in exchange for cash in any transaction in which the amount of the exchange is € two thousand (2,000) or more.
4. These prohibitions do not restrict a gaming house from paying a client's winnings by cheque or other negotiable instrument or by electronic or wire transfer if the cheque, negotiable instrument, or electronic or wire transfer is made payable to the order of the client.

Article 29

Movement of monetary instruments into and out of Kosovo - Obligation to declare

1. Every person entering or leaving Kosovo and carrying monetary instruments of a value of € ten thousand (10,000) or more must declare the amount of the monetary instruments and the source of such monetary instruments in writing, in a format to be prescribed by the Kosovo Customs, to a customs officer, and, if so requested by the officer, shall present the monetary instruments. For the purposes of the present article, a person shall be considered to be carrying monetary instruments, if, inter alia, they are in the physical possession of such person or in a private vehicle or other conveyance being utilized by such person. The obligation to declare shall not have been fulfilled if the information provided is incorrect or incomplete.
2. Every person sending from Kosovo to a place outside Kosovo, or receiving in Kosovo from a place outside Kosovo, via post or commercial courier, monetary instruments of a value of € ten thousand (10,000) or more, must declare the amount of the monetary instruments and the source of such monetary instruments in

- writing, in a format to be prescribed by the Kosovo Customs, to an authorized customs officer, and, if so requested by the officer, shall present the monetary instruments. The person may meet his or her reporting duty under the present paragraph by means of a notification of the contents of a parcel in a customs declaration or in international freight documentation. The obligation to declare shall not have been fulfilled if the information provided is incorrect or incomplete.
3. Kosovo Customs must forward copies of all declarations filed pursuant to paragraph 1 or 2 of this Article to the FIU.
 4. Any person who fails to comply with the provisions of paragraph 1 or 2 of this Article commits a minor offence punishable by a fine of 25% of the total amount of monetary instrument in his/her possession.
 5. The authorized customs officer shall issue to a person who has committed such a minor offence a written notification on a standard form stating the nature of the minor offence and the fine imposed which shall be payable to Kosovo Customs immediately.
 6. If the fine imposed is not paid immediately, the authorized customs officer shall seize and retain 25% of the monetary instruments. If the monetary instruments are not divisible in the manner that permits the seizure and retention of the exact amount of the monetary instruments to be seized and retained, the authorized customs officer shall seize the greater amount which shall be as close in value as possible to such amount.
 7. Upon seizure under paragraph 6 of this Article, the authorized custom officer shall issue to the concerned person a written receipt stating the relevant facts and the amount of the monetary instruments seized and retained.
 8. The monetary instruments seized and retained in accordance with the present article, shall, where possible, be held in the special non-interest bearing account in the name of the CBK or otherwise be held in safe custody with CBK until such time as the fine is paid in full or as otherwise ordered by a Court of the competent jurisdiction or as otherwise provided in the present article.
 9. A fine imposed pursuant to this article is without prejudice to any criminal proceedings against a person.

**Movement of monetary instruments into and out of Kosovo –
Prevention of Money Laundering and Terrorist Financing**

10. Kosovo Customs shall take all appropriate measures to prevent money laundering and terrorist financing and shall report any suspicious transactions or suspicious terrorist financing it detects in the course of its duties to the Financial Intelligence Unit. Kosovo Customs shall liaise with the FIU, prosecutors, police and other relevant bodies for the purpose of performing these duties.
11. In the course of their duties Customs officers may question and search natural persons, their baggage and means of transport and may seize and detain monetary instruments in accordance with this article. The Kosovo Customs and Excise Code shall apply equally in relation to monetary instruments as in relation to goods.
12. Kosovo Customs shall seize and detain:
 - 12.1. any monetary instruments carried by a person entering or leaving Kosovo if

- they are in the value of € ten thousand (10,000) or more in excess of € ten thousand (10,000) and have not been declared in accordance with to paragraph 1 and 2 of this Article;
- 12.2. any monetary instruments carried by a person entering or leaving Kosovo if there is a reasonable suspicion that such monetary instruments are the proceeds of crime or were used or intended to be used to commit or facilitate money laundering or the predicate criminal offence from which the proceeds of crime were derived or are related to terrorist financing.
 13. Upon seizure under paragraph 12 of this Article, Kosovo Customs shall issue to the person concerned a written receipt stating the amount of the monetary instruments seized and retained, the relevant facts, also specifying whether any fine has been deducted from the amount seized in accordance with paragraph 4 of this Article.
 14. Upon seizure of monetary instruments under paragraph 3 of this Article, Kosovo Customs, without delay, shall:
 - 14.1. report the matter to the FIU;
 - 14.2. notify the competent Prosecutor [to enable further investigations/action] and shall provide the competent Prosecutor with a copy of the written receipt given to the person concerned and with all other information required.
 15. The monetary instruments seized and retained by Kosovo Customs in accordance with this article shall, where possible, be held in a special non-interest bearing account in the name of the CBK or otherwise be held in safe custody with the CBK until such time as the fine is paid in full or as otherwise ordered by a court of competent jurisdiction or as otherwise provided by this Law.
 16. Where monetary instruments have been seized pursuant to paragraph 12 of this Article, within ten (10) days of notification under paragraph 14 of this Article the Prosecutor shall:
 - 16.1. submit a motion for confiscation of the monetary instruments;
 - 16.2. submit a motion for a temporary measure for securing the monetary instruments; or
 - 16.3. in writing, notify the person concerned, Kosovo Customs [and the FIU] that no action will be taken in relation to the property seized and that the person concerned may apply for the return of the monetary instruments in accordance with paragraph 17 of this Article.
 17. If the Prosecutor gives a notification under sub-paragraph 16.3. paragraph 16 of this Article that no action shall be taken in relation to the monetary instruments seized, the Kosovo Customs shall return the monetary instruments to the person concerned on application by them.
 18. If a person concerned is unable to collect in person the monetary instruments, he or she may:
 - 18.1. grant a power of lawyer to another person authorizing such person to collect the seized monetary instruments on his or her behalf and/or provide the competent authority with a signed written and notarized document instructing such authority to return the monetary instruments to another named individual; or
 - 18.2. submit a request in writing, addressed to the CBK, to deposit the monetary instruments in a special Kosovo Customs account in the name of such

person until such time as the monetary instruments are collected personally by the person concerned or by a person authorized to do so in accordance with sub-paragraph 18.1 of this paragraph.

19. If no application for return of monetary instruments is made in accordance with paragraph 18 of this Article or the monetary instruments are not collected within twelve (12) months from the date of closure of the procedure set forth in this article, the monetary instruments shall be forfeited to Kosovo Customs and deposited in the Kosovo Consolidated Budget.
20. In the course of their duties and especially when acting in accordance with sub-paragraph 12.2., paragraph 12. of this Article, Customs officers can arrest and detain a person under conditions prescribed by the chapter XXIV of provisional Criminal Code and when arresting and detaining person they shall be recognized as officers of the “police” for the purposes of the Provisional Criminal Code.

Article 30

Compliance inspections by FIU officials

1. For reporting entities as determined in sub-paragraphs 1.4 to 1.8, paragraph 1 of Article 16 of this law, an official or officials of the FIU who have been authorized by the Director of the FIU for this purpose (hereafter an “authorized official or officials”), may, at any time during ordinary business hours, enter any premises other than a residence, if there is a reasonable suspicion that it contains records which are maintained pursuant to Articles 16 to 28 of this law or documents relevant to determining whether obligations under Articles 16 to 28 of this law have been complied with. The authorized official or officials may demand and inspect the records or documents; copy or otherwise reproduce any such record or document; and ask questions in order to locate and understand such records or documents. The authorized official or officials shall limit the inspection to that part of the premises in which the relevant records or documents are reasonably likely to be found and they shall only perform actions which are necessary for, and proportionate to, the purpose of inspection of such records.
2. The owner or person in charge of the premises being inspected and every person present in the premises shall give the authorized officials all reasonable assistance to enable them to carry out their responsibilities, including identifying the relevant records or documents and furnishing any information requested to enable the authorized officials to locate and understand such records or documents. Such persons shall also assist the authorized officials in accessing and copying or reproducing records and documents maintained electronically, and shall permit the use of any copying equipment located on the premises.
3. A person in premises subject to an inspection pursuant to paragraph 1 and 2 of this Article may refuse to allow the inspection or copying of a record or document if he or she asserts that:
 - 3.1. it is not maintained pursuant to Articles 16 to 28 of this law and is not relevant to determining whether obligations under Articles 16 to 28 of this law have been complied with; or
 - 3.2. it contains information that is subject to lawyer-client privilege.

4. In the event of such refusal, an authorized official conducting the inspection shall place the disputed record or document in an envelope or other appropriate container, which shall be sealed in the presence of the person or his or her representative, and signed by the official and the person or representative. The sealed record or document shall be presented within ten (10) days to a Pre Trial Judge of the competent District Court, who shall inspect it, and determine whether it, or any part of it, is subject to inspection and copying pursuant to this article.
5. If a person considers that he or she has been the subject of actions under paragraph 1 and 2 of this Article which are unlawful, he or she may submit a complaint within thirty (30) days of the inspection to a Pre Trial Judge of the competent District Court who shall adjudicate on the lawfulness of the actions referred to in the complaint and decide on compensation where appropriate. Authorized officials of the FIU shall provide the Investigating Judge with such documents as he or she shall request and shall, on request, provide oral testimony.

CHAPTER IV SANCTIONS AND OFFENCES

Article 31 Administrative Sanctions

1. A determination made by the FIU notifying the obligor of a failure to comply with the requirements under sub-paragraph 1.3, paragraph 1 Article 14 of this law shall constitute a violation of the obligations set under the this Law which shall be subject to an administrative sanction in a form of a fine of € five hundred (500) for each day of non-compliance following the date of notification.
2. The imposition of the sanction may be contested before a court of competent jurisdiction.

Article 32 Criminal Offences

1. District Courts shall have jurisdiction for all criminal offences under this Article.

Money Laundering

2. Whoever, knowing or having cause to know that certain property is proceeds of some form of criminal activity, and which property is in fact proceeds of crime, or whoever, believing that certain property is proceeds of crime based on representations made as part of a covert measure conducted pursuant to Chapter XXIX of the Criminal Procedure Code of Kosovo:
 - 2.1. converts or transfers, or attempts to convert or transfer, the property for the purpose of concealing or disguising the nature, source, location, disposition, movement or ownership of the property;
 - 2.2. converts or transfers, or attempts to convert or transfer, the property for the purpose of assisting any person who is involved in, or purportedly involved

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- in, the commission of the criminal offence that produced the property to evade the legal consequences, or apparent legal consequences, of his or her actions;
- 2.3. converts or transfers, or attempts to convert or transfer, the property for the purpose of avoiding a reporting obligation under this Law;
- 2.4. converts or transfers, or attempts to convert or transfer, the property for the purpose of promoting the underlying criminal activity; or
- 2.5. acquires, possesses or uses, or attempts to acquire, possess or use, the property;
- 2.6. conceals or disguises the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, or from an act of participation in such activity;
- 2.7. participates in, associates to commit and aids, abets, facilitates and counsels the commission of any of the actions mentioned in sub-paragraphs 2.1 to 2.6 of this paragraph,
- 2.8. commits a criminal offence punishable by a term of imprisonment of up to ten (10) years and a fine of up to three (3) times the value of the property which is the subject of the criminal offence.
3. For purposes of paragraph 2 of this Article, representations may be a basis for the belief that certain property constitutes the proceeds of crime, even if those representations only indirectly support the belief that the property constitutes the proceeds of crime.
4. Without prejudice to the applicable criminal law with regard to a person who has committed related criminal offences outside the scope of the present paragraph:
 - 4.1. a person may be convicted of the criminal offence of money laundering, even if he or she has not been convicted at any time of the predicate criminal offence from which the proceeds of crime in the criminal offence of money laundering were derived;
 - 4.2. the same person may be prosecuted and convicted in separate proceedings of the criminal offences of money laundering and the predicate criminal offence from which the proceeds of crime in the criminal offence of money laundering were derived; and
 - 4.3. the Courts of Kosovo may have jurisdiction over a criminal offence of money laundering, even if they do not have territorial jurisdiction over the predicate criminal offence from which the proceeds of crime in the criminal offence of money laundering were derived, since it has been committed outside Kosovo.

Article 33 Other Criminal Offences

1. District Courts shall have jurisdiction for all criminal offences under this Article.
2. Whoever, in providing any information, or in making reports, certifications or declarations pursuant to Article 17, paragraphs 2 and 3 of Article 18, paragraphs 1 and 2 of Article 19, paragraph 3 of Article 20, paragraph 2 of Article 21, paragraphs 1, 2 and 3 of Article 22, paragraphs 4 to 7 of Article 24, paragraphs 3 to

- 6 of Article 25, paragraphs 3 to 8 of Article 26, paragraph 2 of Article 27, paragraphs 2 and 3 of Article 28 of this Law, knowingly:
- 2.1. makes any materially false statement or willfully omits to disclose material information; or
 - 2.2. makes or uses any document knowing the document to contain a materially false statement or entry, a material omission or a material error;
 - 2.3. commits a criminal offence punishable by imprisonment of up to five (5) years and a fine of up to € one hundred thousand (100.000).
3. Whoever willfully:
- 3.1. destroys or removes any record which must be maintained pursuant to paragraph 7 of Article 18, paragraph 3 of Article 20, paragraph 4 of Article 24 or paragraph 3 of Article 25 of this law;
 - 3.2. fails to make a report in accordance with paragraph 1 and 2 of Article 22, paragraph 5 of Article 24, paragraph 4 of Article 25, paragraph 3 of Article 26 or paragraph 3 of Article 28 of this law;
 - 3.3. commits a criminal offence punishable by imprisonment of up to two (2) years and a fine of up to € one hundred thousand (100.000). If any criminal offence provided for in this paragraph is committed with the intent to obstruct a regulatory or law enforcement function, the offender shall be punished by imprisonment of up to five (5) years and a fine of up to € one hundred thousand (100.000).
4. A person acting as a bank or financial institution, or an officer, director, agent or employee of a bank or financial institution, who willfully violates paragraph 4 Article 22 of this Law commits a criminal offence punishable by imprisonment of up to two (2) years and/or a fine of up to € one hundred thousand (100.000).. If any criminal offence specified in this paragraph is committed with the intent to obstruct any regulatory or law enforcement function, the offender shall be punished by imprisonment of up to five (5) years and/or a fine of up to € one hundred thousand (100.000).
5. Whoever willfully accepts or disburses currency in violation of Article 24 or 25 of this Law commits a criminal offence punishable by imprisonment of up to two (2) years and a fine of up to € five thousand (5.000) or twice the amount of the currency accepted or disbursed, whichever is greater.
6. An official of the FIU who willfully:
- 6.1. reports information or discloses information pursuant to paragraph 1 and 2 of Article 15 of this law, or discloses information to a Prosecutor or a court, knowing such information to contain a material falsehood, a material omission or a material error;
 - 6.2. destroys or removes any record which shall be collected by the FIU pursuant to this Law, other than as provided for in a document retention and destruction policy established by the FIU; or
 - 6.3. discloses any information described in paragraph 1 of Article 15 of this law other than as provided by paragraph 2 of Article 15 of this law, unless authorized in writing by the Director of the FIU,
 - 6.4. commits a criminal offence punishable by imprisonment of up to two (2) years and a fine of up to € one hundred thousand (100.000). If the criminal

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offence set forth in this paragraph is committed with the intent to obstruct a regulatory or law enforcement function, the offender shall be punished by imprisonment of up to ten (10) years and a fine of up to € one hundred thousand (100.000).

7. Information or the failure to provide information may be material even if the recipient is not influenced or misled by it.
8. Whoever acts as a bank or financial institution as defined in the present Regulation without registering in accordance with section 3.1 of the Banking Regulation, commits a criminal offence punishable by imprisonment of up to one (1) year and a fine of up to € one hundred thousand (100.000).
9. Whoever unlawfully refuses or obstructs an inspection lawfully undertaken pursuant to paragraph 1 and 3 of Article 30 of this law, or willfully conceals records which shall be kept and presented pursuant to this Law, commits a criminal offence punishable by imprisonment of up to one year and a fine of up to € one hundred thousand (100.000).
10. Whoever willfully violates a ruling ordering a temporary measure for securing property under Article 34 of this law, commits a criminal offence punishable by imprisonment of up to five (5) years of imprisonment and a fine of up to € one hundred thousand (100.000).
11. For the purposes of paragraph 2, 6, 9 and 10 of Article 32 of this law, a “willful” act is an act which is performed not only intentionally, but also deliberately and is not performed unintentionally, carelessly or accidentally.

Article 34

Criminal Liability of Legal Persons

1. If a legal person commits an offence under this Law, every director and other person concerning in the management of the legal person (and any person purporting to act in such capacity) commits the offence unless that person proves that:
 - 1.1. the offence was committed without his or her consent or knowledge; and
 - 1.2. the person took reasonable steps to prevent the commission of the offence as ought to have been exercised by that person having regard to the nature of his or her functions in that capacity.

Article 35

Exemption from Liability

Notwithstanding any contrary provisions of applicable law, no civil or criminal liability action may be brought nor any professional sanction taken against any person or entity based solely on the good faith transmission of information, submission of reports, or other action taken pursuant to this Law, or the voluntary good faith transmission of any information concerning a suspicious act or transaction, suspected money laundering or suspected financing of terrorist activities to the FIU.

**CHAPTER V
INTERNATIONAL CO-OPERATION**

**Article 36
Purpose and Scope**

1. The competent authorities of Kosovo undertake to afford the widest possible measure of cooperation to the authorities of foreign jurisdictions for purposes of information exchange, investigations and court proceedings, in relation to temporary measures for securing property and orders for confiscation relating to instrumentalities of money laundering and proceeds of crime, and for purposes of prosecution of the perpetrators of money laundering and terrorist activity.
2. The procedures for affording cooperation under paragraph 1 of this Article are set forth in this Chapter and in such other relevant provisions of the applicable law as do not conflict with it.
3. A request under this Article shall be sent through diplomatic channels pursuant to laws and agreements in force, who shall forward it to the Director of the Department for Legal Affairs of the Ministry of Justice.

**CHAPTER VI
PROFESSIONAL SECRECY**

**Article 37
Professional Secrecy**

1. Notwithstanding any contrary provisions of applicable law, professional secrecy may not be invoked as a ground for refusal to provide information that:
 - 1.1. shall be disclosed pursuant to this Law; or
 - 1.2. Is collected and maintained pursuant to this Law and is sought by either the FIU or the police in connection with an investigation that relates to money laundering and is ordered by, or carried out under the supervision of, a Prosecutor or Pre-Trial Judge.
2. This Article shall be without prejudice to sub-paragraph 3.2, paragraph 3 of Article 30 of this law.

**CHAPTER VII
FINAL PROVISIONS**

**Article 38
Implementation**

Ministry of Economy and Finance may issue administrative instructions for the implementation of this Law.

Article 39
Repeal Provisions

This Law repeals and replaces UNMIK Regulation 2004/2 on the Deterrence of Money Laundering and Related Criminal Offences.

CHAPTER VIII
TRANSITIONAL PROVISIONS

Article 40
Transitional Provisions EULEX to Kosovo

All data collected by FIC, according to UNMIK Regulation 2004/02 shall be transferred to FIU. After the transfer of responsibilities from the FIC to the FIU and for the duration of its mandate, EULEX Kosovo shall have the necessary authority to effectively carry out its mandate in the field of Rule of Law as are set forth in the relevant legal instruments. Relevant aspects of the transition of responsibilities from FIC to FIU, EULEX Kosovo activities, cooperation and access to information shall be agreed upon in a separate arrangement between EULEX Kosovo and Ministry of Finance and Economy.

Article 41

Notwithstanding any provision of this Law or any other law, the Minister of Economy and Finance may delegate to a third party the authority to perform functions assigned to it by this Law or any other law, subject to arrangements between MEF and such third party.

Article 42
Entry into Force

Except where a later effective date is expressly indicated in particular Articles, this Law shall enter into force fifteen (15) days after publication in the Official Gazette of Republic of Kosovo.

Law No. 03/L-196
30 September 2010

Promulgated by Decree No. DL-055-2010, dated 18.10.2010, Acting President of the Republic of Kosovo, Dr. Jakup Krasniqi.

OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / PRISTINA: YEAR V / No. 85 / 09 NOVEMBER 2010

LAW No. 04/L-178
ON AMENDING AND SUPPLEMENTING THE LAW No. 03/L-196
ON THE PREVENTION OF MONEY LAUNDERING
AND PREVENTION OF TERRORIST FINANCING

Assembly of Republic of Kosovo;

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON AMENDING AND SUPPLEMENTING THE LAW No. 03/L-196
ON THE PREVENTION OF MONEY LAUNDERING
AND PREVENTION OF TERRORIST FINANCING

Article 1

1. Article 2 of the basic Law, sub-paragraph 1.9 shall be reworted with the following text:
 - 1.9. **Client** - means any person that conducts, or attempts to conduct, a transaction with or use the services of a reporting Subject as defined in Article 16, and shall include any owner or beneficiary or other person or entity on whose behalf the transaction is conducted or the services are received;
2. Article 2 of the basic Law, sub-paragraph 1.13 shall be reworted with the following text:
 - 1.13. **FATF** – means the “Financial Action Task Force”, an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction;
3. Article 2 of the basic Law, sub-paragraph.1.26 shall be deleted from the text of the law.
4. Article 2 of the basic Law, sub-paragraph 1.35 shall be reworted with the following text:
 - 1.35. **Suspicious Act or Transaction** – means an act or transaction, or an attempted act or transaction, that generates a reasonable suspicion that the property involved in the act or transaction, or the attempted act or transaction, is proceeds of crime and shall be interpreted in line with any guidance issued by the FIU on suspicious acts or transactions;
5. Article 2 of the basic Law, after sub-paragraph 1.39. new sub-paragraphs 1.40., 1.41 and 1.42 shall be added with the following text:

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- 1.40. **Criminal activity** – means any kind of criminal involvement in the commission of a criminal offense as defined under the Laws of Kosovo;
- 1.41. **Politically exposed persons** – means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons. The FIU in consultation with Ministry of Finance may issue a sub-legal act to define the prominent public functions and the immediate family members of such persons.
- 1.42. **Terrorist act** – means definition as defined in the Criminal Code of Kosovo.

Article 2

In the entire text of the basic law references “UNMIK Regulations” shall be replaced with the following text: “**according to the law in force in the Republic of Kosovo**”.

Article 3

Article 3 of the basic law shall be reworded with the following text:

Article 3 Special Prosecution Office

The criminal offences according to this Law and basic Law, fall within the exclusive competence of the Special Prosecution Office of the Republic of Kosovo established by Law No 03/L-052 on the Special Prosecution Office of the Republic of Kosovo.

Article 4

Article 11 of the basic Law paragraph 2. shall be reworded with the following text:

2. Director of FIU nominates the Deputy Director of FIU and delegates tasks in written form.

Article 5

1. Article 15 of the basic law, after paragraph 1 a new paragraph 1.a., shall be added with the following text:
 - 1.a. The FIU is able to exchange, domestically as well as internationally, all information accessible or obtainable directly or indirectly by the FIU.
2. Article 15 of the basic law paragraph 2, after the text “**may become public**” the following text shall be added “**at its own initiative or upon request**”; the rest of the sentence remains the same.

Article 6

Article 16 of the basic law, paragraph 1., after sub-paragraph 1.8. new sub-paragraphs 1.9, 1.10, 1.11, 1.12, shall be added with the following text:

- 1.9. Non-Governmental Organizations.
- 1.10. Political entities.
- 1.11. Dealers in precious metals and dealers in precious stones.
- 1.12. Building construction companies.

Article 7

1. Article 17 of the basic law, paragraph 1. sub-paragraphs 1.1, 1.2 and 1.3 shall be reworded with the following text:
 - 1.1. all reporting subjects shall determine, on an ongoing basis, the risk of money laundering and terrorist financing presented by their customers and any other persons to whom they provide financial services. Where reporting subjects determine that the risk of money laundering and terrorism finance is elevated, they shall take the measures set out in paragraph 1. of Article 21, in addition to the measures set out in this Article.
 - 1.2. all reporting subjects shall identify the beneficial owner and/or a natural person or persons who directly or indirectly control 20% or more of a legal person. Where reporting entities consider that the risk of money laundering or terrorism finance is high, they shall take reasonable measures to verify his or her identity so that the institution or person covered by this law is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts and similar legal arrangements, taking risk-based and adequate measures to understand the ownership and control structure of the customer.
 - 1.3. all reporting entities shall obtain information on the purpose and intended nature of the business relationship, and monitor the business relationship, including scrutiny of transactions made throughout the course of the relationship to ensure that the transactions being conducted are consistent with the reporting entity's or person's knowledge of the customer. The competent regulator may issue binding instructions in connection therewith.
2. Article 17 of the basic law, paragraph 1, sub-paragraph 1.4 shall be deleted from the text of the law.
3. Article 17 of the basic law, paragraph 2, sub-paragraph 2.2.1 shall be reworded with the following text:
 - 2.2.1. a transaction in currency in an amount equal to or above ten thousand (10, 000) Euros whether conducted as a single transaction or several transactions that appears to be linked. If the amount of the transaction is unknown at the time of the operation, the identification shall be done as soon as the amount becomes known or the threshold is reached; or

Article 8

1. Article 18 of the basic law, paragraph 1, shall be reworded with the following text:
 1. Banks, credit and financial institutions are prohibited from keeping anonymous accounts or anonymous passbooks. Banks and financial institutions shall; apply the measures set out in this Act to customers and

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their accounts who are anonymous, and such accounts may not be used to process transactions until the owners and beneficiaries of existing anonymous accounts or anonymous passbooks are made the subject such measures as soon as possible.

2. Article 18 of the basic law, paragraph 2, sub-paragraph 2.5 shall be reworded with the following text:
 - 2.5. engaging in any single transaction in currency of ten thousand (10, 000) euros or more. Multiple currency transactions shall be treated as a single transaction if the bank or financial institution has knowledge that the transactions are conducted by or on behalf of one person or entity and total ten thousand (10, 000) euros or more in a single day.
3. Article 18 of the basic law, paragraph 6, reference “**paragraph 1 Article 21 of this law**” shall be deleted and replaced with the reference “**paragraph 2 Article 22 of this Law.**”
4. Article 18 of the basic law, paragraph 7. shall be deleted from the text of the law.

Article 9

1. Article 19 of the basic law, paragraph 1, shall be reworded with the following text:
 1. Banks and financial institutions whose activities include wire transfers shall obtain and verify the full name, account number, the address, or in absence of address the national identity number or date and place of birth, including when necessary the name of the financial institution, of the originator of such transfers. The information shall be included in the message or payment form accompanying the transfer. If there is no account number, a unique reference number shall accompany the transfer.
2. Article 19 of the basic law paragraph 4. shall be reworded with the following text:
 4. Paragraphs 1 and 2 of the Article shall not apply to transfers executed as a result of credit card or debit card transactions, provided that the credit card or debit card number accompanies the transfer resulting from the transaction, nor shall they apply to transfers between banks and/or financial institutions where both the originator and the beneficiary are banks or financial institutions acting on their own behalf.

Article 10

1. Article 21 of the basic law, paragraph 1, shall be reworded with the following text:
 1. When the reporting subjects determine, in accordance with paragraph 1 of Article 17, that the risk of money laundering or terrorism finance is elevated, they shall take reasonable measures to keep up to date the information collected pursuant to Article 17, and apply reasonable enhanced measures to monitor the business and risk profile, including the source of funds, and ensure that records and other information held are kept up to date. The competent regulator may issue binding instructions in connection therewith.
2. Article 21 of the basic law, paragraph 5. shall be reworded with the following text:

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5. Reporting subjects shall take reasonable measures to determine if their clients are domestic politically exposed persons, and if such determination results in a client being determined to be a domestic politically exposed persons, then reporting subjects shall take measures set out in Article 19 paragraph 1, in respect of such clients.
 - 5.1. reporting subjects shall ensure they determine whether their clients are foreign politically exposed persons, and is such determination results in a client being determined to be a foreign politically exposed persons then reporting subjects shall take the following measures.
 - 5.1.1. obtain the approval of a senior officer of the reporting subject;
 - 5.1.2. take adequate measures to establish the origin of the assets used in the relationship or transaction; and
 - 5.1.3. ensure continuous and strengthened monitoring of the account and the relationship.
3. Article 21 of the basic law, paragraphs 6. and 7. shall be reworded with the following text:
 6. Financial intermediaries cannot open or maintain correspondent accounts with a shell bank or a bank which is known to allow the use of shell accounts.
 7. The institutions and persons subject to this law shall pay particular attention to any risk of money laundering or terrorist financing related to products or transactions which promote anonymity and take any measures necessary to prevent its use for the purpose of money laundering or terrorist financing.
4. Article 21 of the basic law, after paragraph 7. new paragraphs 8. and 9. shall be added with the following text:
 8. Dealers in precious metals and dealers in precious stones shall report any suspicious act or transaction to the FIU within three (3) working days and prior to taking further action in connection with any such actor o transaction. Reports shall be made in a form and manner prescribed by the FIU.
 9. Building construction companies shall report any suspicious act or transaction to the FIU within three (3) working days and prior to taking further action in connection with any such actor o transaction. Reports shall be made in a form and manner prescribed by the FIU.

Article 11

1. Article 22 of the basic law, paragraph 2., reference “**paragraph 1. Article 21 of this law**” shall be replaced with the reference “**paragraph 1. Article 22 of this law.**”
2. Article 22 of the basic law, paragraph 3., reference “**paragraph 1. Article 21 of this law**” shall be replaced with the reference “**paragraph 1. Article 22 of this law**”.
3. Article 22 of the basic law, paragraph 6., reference “**paragraph 5. Article 21 of this law**” shall be replaced with the reference “**paragraph 5. Article 22 of this law**”.

Article 12

1. Article 23 of the basic law paragraph 1. the phrase “**contact person**” shall be deleted and replaced with the phrase “**compliance officer**”; the rest of the sentence remains the same.
2. Article 23 of the basic law in paragraphs 1. and 3., after the abbreviation “**FIU**”, the following conjunction and abbreviation “**and CBK**” shall be added; the rest of the sentence remains the same.

Article 13

1. Article 24 of the basic law, after paragraph 9. new paragraph 10. shall be added with the following text:
 10. Directors, officers, employees and agents of an NGO who make or transmit reports pursuant to the present article shall not provide the report, or communicate any information contained in the report or regarding the report, to any person or entity, including any person or entity involved in the transaction which is the subject of the report, other than the FIU, unless authorized in writing by the FIU, a Prosecutor, or a Court.

Article 14

Article 25 of the basic law, after paragraph 8., a new paragraph 9., shall be added with the following text:

9. Directors, officers, employees and agents of Political Parties and registered Candidates who make or transmit reports pursuant to the present article shall not provide the report, or communicate any information contained in the report or regarding the report, to any person or entity, including any person or entity involved in the transaction which is the subject of the report, other than the FIU.

Article 15

1. Article 26 of the basic law, paragraph 12 sub-paragraph 12.3. reference “**paragraph 3 to 9 of Article 24 of this law**” shall be deleted and replaced with the reference “**paragraphs 3 to 9 of Article 26 of this law**”.
2. Article 26 of the basic law, after sub-paragraph 13, a new paragraph 13.a, shall be added with the following text:
 - 13.a. Directors, officers, employees and agents of any “covered professionals” who make or transmit reports pursuant to the present article shall not provide the report, or communicate any information contained in the report or regarding the report, to any person or entity, including any person or entity involved in the transaction which is the subject of the report, other than the FIU, unless authorized in writing by the FIU, a Prosecutor, or a Court.

Article 16

Article 27 of the basic law, paragraph 1. shall be reworded with the following text:

1. When conveyance of immovable property rights involves a transaction or transactions of a monetary amount of ten thousand (10,000) euros or more, each transaction shall be made by payment order or bank transfer.

Article 17

Article 28 of the basic law shall be reworded with the following text:

Article 28

Additional Obligations of Casinos and Other Gaming Houses

1. Casinos and Licensed Object of Games of Chance as defined in Article 2 are subject to the anti-money laundering and anti-terrorist financing provisions of this Law and are obligated to take specific measures to address the risk of money laundering and the financing of terrorism in providing gambling services.
2. Casinos and Licensed Object of Games of Chance shall verify and record in permanent fashion the identity of a client before entering into a transaction or multiple or linked transactions to sell, purchase, transfer, or exchange gambling chips, tokens, or any other evidence of value in an amount of two thousand (2 000) euros or more or the equivalent value in foreign currency. The identity verification and recordation requirement also extends to financial transactions such as the opening of an account (including safekeeping), a wire transfer or a currency exchange in the amount of two thousand (2 000) euros or more or the equivalent in foreign currency. If the Casino, Gaming House, or Licensed Object of Games of Chance is not able to verify the identity of a client, it shall not enter into the transaction.
3. Casinos and Licensed Object of Games of Chance shall report to the FIU, in the manner and in the format specified by the FIU:
 - 3.1. all suspicious acts, transactions or attempted transactions within twenty four (24) hours of the time the act, transaction, or attempted transaction was identified as suspicious;
 - 3.2. all single transactions in currency of ten thousand (10, 000) euros or more. Multiple or linked transaction shall be treated as a single transaction if the Casino, Gaming House and Licensed Object of Games of Chance knows, or reasonably should have known, that the transactions as by or on behalf of one person or entity and total more than ten thousand (10, 000) euros in a single gaming day;
4. Gaming houses shall not engage in any of the following transactions:
 - 4.1. exchange cash for cash with a client, or with another recipient on behalf of the client, in any transaction in which the amount of the exchange is two thousand (2 000) euros or more;
 - 4.2. issue a check or other negotiable instrument to a client, or to another recipient on behalf of the client, in exchange for cash in any transaction in which the amount of the exchange is two thousand (2 000) euros or more;

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- 4.3. transfer funds by electronic or wire transfer or other method to a client, or to another recipient on behalf of the client, in exchange for cash in any transaction in which the amount of the exchange is two thousand (2 000) euros or more.
5. These prohibitions do not restrict a gaming house from paying a client's winnings by check or other negotiable instrument or by electronic or wire transfer if the check, negotiable instrument, or electronic or wire transfer is made payable to the order of the client.
6. Casinos, Gaming Houses and Licensed Object of Games of Chance shall:
 - 6.1. develop and implement internal policies, procedures and controls, including appropriate compliance regimes, and adequate screening procedures to ensure high standards when hiring employees;
 - 6.2. conduct ongoing employee training programs; and
 - 6.3. implement procedures to test compliance with the Law and related sub-legal acts.
7. Each Casino, Gaming House and Licensed Object of Games of Chance shall in a manner required by the FIU, create, and keep accurate, complete, legible, and permanent original records to ensure compliance with this Law and related sub-legal acts within Kosovo for a minimum period of five (5) years.
8. The FIU shall from time to time, adopt, amend, or repeal sub-legal acts consistent with the policy, objects and purposes of this section of the Law as it may deem necessary or desirable in the public interest in carrying out the policy and provisions of this Law.

Article 18

1. Article 29 of the basic law, paragraph 3., at the end of paragraph the following text shall be added **“The FIU shall be notified of false declarations or disclosures.”**
2. Article 29 of the basic law, paragraph 4, at the end of paragraph shall be added the following text **“for which they had an obligation to declare. “**
3. Article 29 of the basic law, paragraph 14. reference **“paragraph 3 of this Article”** shall be deleted and replaced with reference **“paragraph 12 of this Article.”**
4. Article 29 of the basic law, after paragraph 20, a new paragraph 21 shall be added with the following text:
 21. against the decision brought according to Article 29 of this law, the party has the right to submit a request for review of decision to the Customs within thirty (30) days from the date the decision or customs declaration is received.

Article 19

Article 30 of the basic law, paragraph 1. shall be reworded with the following text:

1. For reporting entities as determined in sub-paragraphs 1.1 to 1.11., paragraph 1. of Article 16 of this law, an official or officials of the FIU who have been authorized by the Director of the FIU for this purpose (hereafter an “authorized official or officials”), may, at any time during ordinary

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business hours, enter any premises other than a living house or residence, if there is a reasonable suspicion that it contains records which are maintained pursuant to Articles 16 to 28 of this law or documents relevant to determining whether obligations under Articles 16 to 28 of this law have been complied with. The authorized official or officials may demand and inspect the records or documents; copy or otherwise reproduce any such record or document; and ask questions in order to locate and understand such records or documents. The authorized official or officials shall limit the inspection to that part of the premises in which the relevant records or documents are reasonably likely to be found and they shall only perform actions which are necessary for, and proportionate to, the purpose of inspection of such records.

Article 20

Article 31 of the basic law shall be reworded as following:

Article 31 Administrative Sanctions

1. A determination made by the FIU notifying the obligor of a failure to comply with this law shall constitute a violation of the obligations set under this Law which shall be subject to an administrative sanction in a form of a fine of five hundred (500) euros for each day of non-compliance following the date of notification.
2. The FIU in consultation with Minister of Finance, may issue a sub-legal act to define the administrative offence procedure.
3. The imposition of the sanction may be contested before a court of competent jurisdiction.

Article 21

After Article 31 of the basic law, two new Articles 31.A and 31.B shall be added with the following text:

Article 31.A

1. A pecuniary penalty from five hundred (500) to seven thousand (7,000) euros shall be imposed on legal persons for the following infringements:
 - 1.1. failure to develop a risk analysis, i.e. failure to make a risk assessment for individual groups or types of customers, business relationships, products or transactions or failure to make the risk analysis and assessment compliant with guidelines passed by the competent supervisory body.
 - 1.2. failure to apply the customer due diligence measures in instances prescribed by this Law or the Administrative Instruction.
 - 1.3. establishing a business relationship with a customer without conducting a prior customer due diligence.

- 1.4. conducting transactions valued at ten thousand (10,000) euros or greater, i.e. conducting mutually linked transactions without prior conducting the prescribed measures with this Law.
- 1.5. failure to identify and verify customer's identity at customer's entry into a casino or at a point of conducting the transaction at the cashier or when the customer wants to take part in games of chance of the organizer, who conducts games of chance on Internet or through other telecommunication means, i.e. electronic communications, or for failure to obtain the prescribed customer information or failure to obtain such information in the prescribed manner.
- 1.6. if, when conducting wire transfers or cash remittances in the prescribed manner are not summarized, failure to collect or include in the form or a message accompanying a wire transfer, accurate and valid data on the sender or the issuer of the order, or if pertinent data fail to follow the transfer at all times throughout the course of the chain of payment.
- 1.7. if a payment service provider, acting as an intermediary or receiver of the transfer, on the occasion of the transfer of means which do not contain full information for the payer, fails to refuse a wire transfer which does not contain complete payee data or fails to supplement the payer data within a given deadline.
- 1.8. failure to identify a customer or verify the customer's identity, or the identity of a legal representative, a person authorized by power of attorney or the customer's beneficial owner, and failure to obtain documentation prescribed for the purposes of identification or identity verification or the power of attorney, in instances when the customer conducts transactions through the person authorized by the power of attorney.
- 1.9. failure to obtain data on the purpose and intended nature of a business relationship or a transaction and other information within the framework which should be obtained as per this Law.
- 1.10. establishing a business relationship with a customer in instances when the customer due diligence was conducted by a third person, contrary to this Law and the regulations to be issued by Ministry of Finance.
- 1.11. failure to conduct the prescribed measures and additionally obtain data, information and documentation or failure to obtain them in the prescribed manner when establishing a correspondent relationship with a bank or other credit institution seated in a third country.
- 1.12. entering into or extending a correspondent relationship with a bank or other credit institution seated in a third country, contrary to the provisions contained in this Law.
- 1.13. failure to obtain data on the source of funds and assets when entering into a business relationship with or conducting a transaction with a person who is a politically exposed person, which funds and property are or will be subject to the business relationship or the transaction, or failure to obtain such data in the prescribed manner.
- 1.14. failure to obtain the required customer data within the framework of the simplified customer due diligence or failure to obtain such data in the prescribed manner with this Law.

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- 1.15. opening, issuing or keeping anonymous customer accounts, coded or bearer passbooks, i.e. accounts or passbooks in the name but containing no additional personal information or accounts registered at false names and other anonymous products.
- 1.16. entering into or extending correspondent relationships with a bank which operates or might operate as a shell bank, or with a credit institution known to enter into a relationship of account opening and keeping agreements with shell banks.
- 1.17. receiving from a customer or a third person a cash payment in an amount exceeding ten thousand (10,000) euros or in transactions with non-residents with a value exceeding ten thousand (10,000) euros, respectively receiving the payment ready in several mutually linked cash transactions, which jointly exceed a total amount of the value of ten thousand (10,000) euros.
- 1.18. failure to refrain from the conducting a transaction for which the entity knows or suspects that transaction is connected with money laundering or terrorist financing, failure to notify the FIU of such transaction before its execution, and failure to indicate in the report the reasons for suspicion of money laundering and terrorist financing, the deadline within which the transaction is to be executed and other prescribed data necessary, or failure to notify the FIU of the customer with which a business relationship was terminated or for whom they refused to conduct a transaction due to the inability to conduct the prescribed measures.
- 1.19. failure to supply the FIU within the prescribed period with the required data, information and documentation on a transaction or a person for which a reason exists for suspicion of money laundering or terrorist financing or failure to comply with the authorized person's request from the FIU to enable such a person exercise direct examination of the documentation at the legal person's business premises.
- 1.20. failure to comply with the order issued by the FIU for temporary transaction suspension or failure to comply with the instruction on the course of action in relation to persons to which the temporary transaction suspension shall pertain.
- 1.21. failure to comply with the order of the FIU for ongoing monitoring of a customer's financial sustainability of operations.
- 1.22. failure to close within the prescribed deadline set by the FIU the anonymous accounts and coded or bearer passbooks and all other anonymous products enabling the concealment of the customer identity, which were opened before the effective date of this Law being enforced or failure to conduct customer due diligence.

Article 31.B.

1. A pecuniary penalty from five hundred (500) to ten thousand (10,000) euros shall be imposed on legal persons for the following infringements:
 - 1.1. failure to ensure detection and prevention measures for money laundering and terrorist financing defined in this law in its business units, subsidiaries

- and companies wherein he owns majority of shares and the majority of decision making rights, located in a third country.
- 1.2. failure to carry out the entire prescribed customer due diligence measures or failure to carry them out in compliance with the procedure defined in the sub-legal acts.
 - 1.3. failure to obtain a written statement from the customer, the customer's legal representative or a person authorized by power of attorney in instances when there is an existing suspicion of the veracity of data which serve as the foundation for identifying the customer's identity, the customer's legal representative or the person authorized by power of attorney prior to the establishment of a business relationship or conducting a transaction.
 - 1.4. failure to apply the prescribed measures in monitoring the customer's business activities.
 - 1.5. failure to conduct a repeated annual analysis to obtain the prescribed data and customer's due diligence for the legal entity, or the failure documents, or failure to obtain them in the prescribed manner.
 - 1.6. conducting a transaction for a foreign legal person without checking whether or not this person meets all the requirements prescribed by this Law.
 - 1.7. entrusting a third person to conduct the customer due diligence without checking whether or not such third person meets all the requirements prescribed by this Law.
 - 1.8. accepting due diligence conducted by a third person as adequate, which third person conducted the customer identification and identity verification measure without the customer's prior knowledge.
 - 1.9. entrusting a third person with conducting customer due diligence, which third person fails to meet requirements as prescribed in the Law.
 - 1.10. failure to exercise appropriate monitoring of transactions and other business activities performed by a foreign politically exposed person with the legal person after entering into a business relationship.
 - 1.11. establishing a business relationship with a customer who shall not be physically present during the identification process, without adopting a measure to ensure that the first payment be conducted through the account the customer has established with the credit institution before the execution of any further customer's transaction.
 - 1.12. failure to enforce policies and procedures in place for monitoring the money laundering or terrorist financing risk which may stem from new technologies enabling anonymity or for failure to take measures aimed at preventing the use of new technologies for the money laundering and/or terrorist financing purposes.
 - 1.13. failure to enforce policies and procedures in place for the risk associated with a business relationship or transaction with customers who are not physically present or for failure to apply these measures when the business relationship is established with a customer and during the course of conducting customer due diligence measures.
 - 1.14. failure to supply the FIU within the prescribed period with data on a

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transaction being conducted in cash in an amount of ten thousand (10,000) euros or more.

- 1.15. failure to appoint the authorized person and one or several authorized person's deputies with the request of the FIU, with the purpose of detecting and preventing money laundering and terrorist financing, as prescribed in this Law and regulations passed on the basis of this Law.
- 1.16. failure to assign proper authorities for the authorized person and ensure the conditions for the performance of the authorized person's obligations and tasks.
- 1.17. failure to produce a list of indicators for the detection of customers and transactions for which there shall exist reasons for suspicion of money laundering or terrorist financing, or failure to produce such a list in the prescribed manner and within the timeframe.
- 1.18. failure to keep data and documentation for five (5) years after the transaction execution, or after the business relationship has terminated, after the entry of a customer to a casino or a safe deposit box.

Article 22

1. Article 32 of the basic law, paragraph 1. shall be deleted from the text of the law.
2. Article 32 of the basic law, paragraph 2 reference "**Chapter XXIX**" shall be replaced with reference "**Chapter IX**"

Article 23

1. Article 33 of the basic law, paragraph 1. shall be deleted from the text of the law.
2. Article 33 of the basic law, paragraph 2. shall be reworded with the following text:
 2. Whoever, in providing any information, or in making reports, certifications or declarations pursuant of this Law, knowingly:
 - 2.1. provides a false statement or willfully omits to disclose important information;
 - 2.2. makes or uses any document knowing that the document contains false statement or important notes.
 - 2.3. commits a criminal offense punishable up to five (5) years imprisonment and a fine up to one hundred thousand (100,000) Euros.
3. Article 33 of the basic law, paragraphs 3.1 and 3.2 shall be reworded with the following text:
 - 3.1. destroys or removes any record which must be maintained pursuant to paragraph 3 of Article 20, paragraph 4 of Article 24, paragraph 3 of Article 25, paragraph 10 of Article 26 or paragraph 3 of Article 27 of this law;
 - 3.2. fails to make a report in accordance with paragraph 1. and 2. of Article 22, paragraph 5 of Article 24, paragraph 4 of Article 25, paragraph 3., 7. and 8. of Article 26 or paragraph 3. of Article 28 of this law;
4. Article 33 of the basic law, paragraph 10., after the text "**for securing property**" reference "**under Article 34**" shall be deleted and replaced with reference "**under this Article**"; and the rest of the sentence remains the same.

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5. Article 33 of the basic law, paragraph 11 reference “**Article 32 of this law**” shall be deleted and replaced with the reference “**Article 33 of this law**”; the rest of the sentence remains the same.

Article 24

Article 36 of the basic law paragraph 3., shall be reworded with the following text:

3. A request under this Article shall be sent through diplomatic channels pursuant to laws and agreements in force, who shall forward it to the Office of International Legal Cooperation or other competent authority.

Article 25

After Article 36 of the basic law, new Articles 36.A, 36.B, 36.C, 36.D shall be added with the following text:

Article 36.A

Compliance Inspection by CBK

The Central Bank of the Republic of Kosovo and other sectoral supervisors in accordance with their competencies stipulated herein and in other relevant laws, remain responsible to supervise the implementation of the provisions of the this law by the entity under their supervision only if the FIU delegates the right for supervisor base in written agreement.

Article 36.B

Terrorist Financing Criminal Offense

1. Whoever, when committed intentionally, participates as an accomplice, provides or collects funds or organizes or direct others to provide or collect funds, or attempts to do so, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used in full or in part:
 - 1.1. to carry out a terrorist act;
 - 1.2. by a terrorist; or
 - 1.3. by a terrorist organization will be deemed to have committed the act of terrorist financing.
2. The offence is committed irrespective of any occurrence of a terrorist act referred to in paragraph 1, or whether the funds have actually been used to commit such act.
3. Terrorist financing shall be punishable by a fine of five hundred thousand (500 000) euros or imprisonment from seven (7) to twenty (20) years or either of these penalties.
4. An attempt to commit the offence of financing of terrorism or aiding, abetting, facilitating or counseling the commission of any such offence shall be punished as if the offence had been completed.

Article 36.C

Intimidation Regarding Reporting Suspicious Activity or Transactions

Whoever uses force or serious threat, or any other means of compulsion, or a promise of a gift or any other form of benefit to induce another person to refrain from making a report required under Article 13 of this Law, or to make a false statement or to otherwise fail to state true information to the FIU, CBK, investigative agencies, a prosecutor or a judge, when such information relates to the reporting obligations of Article 13 of this Law shall be punished by a fine of up to one hundred and twenty-five thousand (125 000) euros and by imprisonment of two (2) to ten (10) years.

Article 36.D

1. Customs officers and officials of the Tax Administration of Kosovo recognized as “Judiciary Police” according to the Criminal Procedure Code of Kosovo have the competences, responsibilities and tasks for the investigation and detection of the criminal offences of money laundering and terrorist financing and are authorized to conduct investigations of these offenses under the supervision of a prosecutor.
2. TAK and Customs shall appoint a liaison officer with Special Prosecution Office and other Prosecution Offices for professional cooperation.

Article 26

Article 37 of the basic law, paragraph 2, shall be reworded with the following text:

2. This Article shall be without prejudice to paragraph 9. of Article 26 and sub-paragraph 3.2, paragraph 3. of Article 30 of this law.

Article 27

The Ministry of Finance will issue Administrative Instructions for the National Money Laundering and Terrorist Financing Risk Assessment, to bring in force the new future EU Directive for Prevention of Money Laundering and Terrorist Financing and other provisions for implementation of this Law.

Article 28

This law shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-178
11 February 2013

Promulgated by Decree No.DL-003-2013, dated 26.02.2013, President of the Republic of Kosovo Atifete Jahjaga.

OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 5 / 8 MARCH 2013, PRISTINA

**LAW No. 03/L-182
ON PROTECTION AGAINST DOMESTIC VIOLENCE**

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Assembly of Republic of Kosovo,

Pursuant to Article 65 (1) of the Constitution of Republic of Kosovo,

Approves

LAW ON PROTECTION AGAINST DOMESTIC VIOLENCE

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose of the Law**

1. This Law aims to prevent domestic violence, in all its forms, through appropriate legal measures, of the family members, that are victims of the domestic violence, by paying special attention to the children, elders and disabled persons.
2. This Law, also aims, treatment for perpetrators of domestic violence and mitigation of consequences.

**Article 2
Definitions**

1. Terms used in this Law have the following meaning:
 - 1.1. **Family Relationship-** is considered to exist amongst persons if they:
 - 1.1.1. are engaged or were engaged;
 - 1.1.2. are married or were married;
 - 1.1.3. are in extra martial union or were in extra marital union;
 - 1.1.4. are cohabiting in a common household or were cohabiting in such a household;
 - 1.1.5. use a common house and are in connection by blood, marriage, or adoption, in-law or are in a guardian relationship, including parents, grandparents, children, grandchildren, nephews, siblings, aunts, uncles or cousins;

- 1.1.6. are parents of a common child;
- 1.1.7. are procedural parties in a dispute of family relationship.
- 1.2. **Domestic Violence** - one or more intentional acts or omissions when committed by a person against another person with whom he or she is or has been in a domestic relationship, but not limited to:
 - 1.2.1. use of physical force or psychological pressure exercised towards another member of the family;
 - 1.2.2. any other action of a family member, which may inflict or threaten to inflict physical pain or psychological suffering;
 - 1.2.3. causing the feeling of fear, personal dangerousness or threat of dignity;
 - 1.2.4. physical assault regardless of consequences;
 - 1.2.5. insult, offence, calling by offensive names and other forms of violent intimidation;
 - 1.2.6. repetitive behavior with the aim of derogating the other person;
 - 1.2.7. non-consensual sexual acts and sexual ill-treatment;
 - 1.2.8. unlawfully limiting the freedom of movement of the other person;
 - 1.2.9. property damage or destruction or threatening to do this;
 - 1.2.10. causing the other person to fear for his or her physical, emotional or economic wellbeing;
 - 1.2.11. forcibly entering removing from a common residence or other person's residence;
 - 1.2.12. kidnapping.
- 1.3. **Protected Party** - a person subjected to domestic violence and his/her subordinate for whose benefit a protection order, an emergency protection order or temporary emergency order is sought.
- 1.4. **Petition** - the act through which protection from domestic violence is sought.
- 1.5. **Perpetrator** - a person who is has committed an act or acts of domestic violence and against whom a protection order, an emergency protection or temporary protection order is sought.
- 1.6. **Victim** - a person who was subjected to domestic violence.
- 1.7. **Authorized Representative** - the person who is authorized to advocate the interests of the protected party and to provide support and assistance to victims.
- 1.8. **Protection of victims** - the official authorized person, who directly protects the damaged party since the first contact with competent protection authorities, advises, initiates procedures for imposing protection measures, is obliged to participate in all judicial sessions, to monitor the progress of the judicial process.
- 1.9. **Protection order** - an order issued by a court decision providing protection measures for the victim.
- 1.10. **Emergency protection order** - an order issued temporarily with the court decision.
- 1.11. **Temporary Emergency Protection Order** - a order issued outside working hours of courts.

Article 3

Court Jurisdiction, Competent Authorities and Protection Measures

1. The municipal court that has the jurisdiction at the municipality where the applicant is temporarily or permanently residing or staying shall be competent to issue protection measures.
2. Every municipal court shall have the authority to review the request for protection order or emergency protection order and for issuing the order, if the competent court according to paragraph 1 of the present Article has submitted a request for protection order or emergency protection order and if that court has jurisdiction at the municipality where the protected party has changed his/her place of residence or stay or if this transfer serves to the best interest of the protected party.
3. If at the competent court, the request has been submitted according to the Law No. 2004/32 on Family of Kosovo, the same court shall be competent to review the request for protection order or emergency protection order as well as to issue the order.
4. Protection measures shall be issued with the purpose of preventing domestic violence, to protect a person who is exposed to violence, by removing the circumstances which impact or may impact in committing other acts.
5. The competent municipal court, with protection order or emergency protection order, may impose one or more protection measures.
6. Competent body for the execution of protection measures shall be the Kosovo Police.

Article 4

Protection Measure of Psycho-Social Treatment

1. The protection measure for psycho-social treatment may be issued to a perpetrator of domestic violence in combination with any other preventing measure with the aim of eluding violent behaviors of the perpetrator or if there is a risk to repeat the domestic violence.
2. The measure from paragraph 1 of this Article continues until the causes on basis of which it was issued, but may not continue more than six months.
3. Ministry responsible for Labor and Social Welfare in cooperation with the Ministry responsible for Health and relevant institutions prepare and propose for approval to the Government the issuance of a sub-legal act with which the way and location of implementation of psycho-social treatment is determined.

Article 5

Protection Measure on prohibition of approaching the domestic violence victim

1. Protective measures on prohibition of approaching the domestic violence victim and his/her subordinate and other persons if necessary, may be issued to a person who has committed domestic violence, if there is a risk of repetition of domestic violence.
2. In the order with which there is issued the measure on prohibition of approaching the domestic violence victim, the Court defines the location, region and distance within which the perpetrator cannot approach the victim of domestic violence.

Article 6

Protection Measures of Prohibition of Harassment to Persons Exposed to Violence

1. Protective measure of prohibition of harassment, in compliance with the definition provided in Article 2 paragraph 1.2. of this Law may be imposed to a perpetrator of domestic violence, where there is a risk of repetition of domestic violence.
2. The child custody shall be entrusted temporarily to the victim of domestic violence, while the parental right temporary shall be removed from the perpetrator of domestic violence.

Article 7

Protection Measures of Removal from Apartment, House or other Living Premises

1. Removal from the apartment, house or other living premise may be imposed to a person who has committed violence against a member of the family sharing the same apartment, house or living premise if there is a risk to repeat domestic violence.
2. A person who has been imposed measures as per paragraph 1. of the present article is immediately obliged to leave the apartment, house or other living premise, at the presence of a police officer.

Article 8

Protection Measure of Accompanying Victim of Violence

1. Accompanying victims may be imposed with the purpose of protection during collection of personal items.
2. Measure from paragraph 1. of this Article are applied under accompaniment of a police officer.

Article 9

Protection measures medical treatment from alcohol dependency and dependency from psychotropic substances

1. Mandatory medical treatment from alcohol and psychotropic substance dependency may be imposed to a person who has committed domestic violence under their influence, where there is a risk to repeat domestic violence.
2. Ministry responsible for Health shall issue a sub-legal act, for the treatment manner of persons to whom is imposed mandatory treatment from alcohol and psychotropic substances dependency.

Article 10

Protection Measure of Confiscation of Item

1. Protection Measure of confiscation of item by means of which the act of violence was committed, or items by means of which the act of violence is suspected to be repeated, is imposed with the aim of protection of person against whom domestic

- violence has been committed or other persons.
2. Protection measure from paragraph 1 of this Article is implemented in accordance with the Kosovo Criminal Code.

Article 11 **Property Protection Measures**

1. The Court, in addition to measures envisaged under articles 4 to 10 of this law, may impose the following measures:
 - 1.1. ordering the perpetrator to allow the protected party to use living premises shared, or a part of the premise;
 - 1.2. ordering the perpetrator to pay for rent of temporary living premise of the protected party or to pay alimony to the protected party and any children, for whom the domestic violence perpetrator has an obligation to support;
 - 1.3. prohibiting the perpetrator or the protected party to sell any assets within a determined period of time;
 - 1.4. offering the possibility to the protected party to exclusively possess and use its assigned personal assets;
 - 1.5. imposing any other measures that are necessary to protect the safety, health or welfare of the protected party or person the protected party is in a domestic relationship with;
 - 1.6. to order the perpetrator to allow the protected party to return to the household.
2. The perpetrator has the right to collect personal belongings in the presence of police officers.
3. Protective measures foreseen in articles 4,5,6,7,8,9,10,11 are issued in accordance with the duration of the protective measures.

Article 12 **Relation to other Orders**

1. Regardless of any other order issued by the court or any other decision issued by the court or any competent body, the protection order, emergency protection order or temporary emergency protection order may be issued in compliance with the present Law.
2. Issuance of a protection order, emergency protection order or temporary emergency protection order shall not infringe the property or custodian rights of any person following its expiry.

Article 13 **Petitions for Protection Orders or Emergency Protection Orders**

1. A petition for protection order may be submitted by:
 - 1.1. the protected party;
 - 1.2. an authorized representative of the protected party;
 - 1.3. a victim advocate, upon consent of the protected party;

- 1.4. representative social welfare centre in the municipality where the protected party permanently or temporary resides in cases where the victim is minor.
2. A petition for emergency protection orders may be submitted by:
 - 2.1. the protected party;
 - 2.2. an authorized representative of the protected party;
 - 2.3. the victim advocate, upon consent of the protected party;
 - 2.4. a person with whom the protected party has a domestic relationship;
 - 2.5. a representative from the Center for Social Work in the municipality where the protected party permanently or temporarily resides in cases where the victim is minor;
 - 2.6. a person with direct knowledge of an act or acts of domestic violence against the protected party.
3. A petition for protection order or emergency protection order may be submitted by NGOs that are familiar with problem of the victim and are well informed for their treatment.

Article 14

Petition Form for Protection Order or Emergency Protection Order

1. A petition for protection order or emergency protection order shall be submitted in writing or verbally and includes:
 - 1.1. the name of the court;
 - 1.2. the name, address and occupation of the perpetrator;
 - 1.3. the name and address of the protected party and the person who has petitioned for protection of the party who is to be protected by the protection order and the relationship of such persons to the perpetrator;
 - 1.4. a detailed description of the subject matter and, where possible, evidence should be attached as well as the reasons for petitioning to issue a protection order or emergency protection order;
 - 1.5. the proposal protection measure.
2. If the disclosure of the permanent or temporary address of the petitioner, the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order or emergency protection order, would endanger such person, the one or more following measures may be taken:
 - 2.1. the petition may provide an alternative address;
 - 2.2. the alternative address provided in the petition shall be the only address reflected in public court documents and records; or
 - 2.3. if the court determines that disclosure of an address in the court records is necessary, the records which reflect that address shall be sealed.

Article 15

Review of Petitions for Protection Orders

1. The competent court shall decide on a petition for a protection order within fifteen (15) days of receipt of the petition.
2. In reviewing a petition for a protection order, the court shall hold a hearing so that the following persons may be heard:

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- 2.1. the protected party, an authorized representative or the victims advocate;
- 2.2. the perpetrator or an authorized representative;
- 2.3. the petitioner;
- 2.4. a representative from the Center for Social Work of the municipality where the person referred to below permanently or temporarily resides in a case where:
 - 2.4.1. the petitioner is under the age of eighteen (18) years or lacks capacity to act; or
 - 2.4.2. the alleged acts of domestic violence impact on a person who is under the age of eighteen (18) years or lacks capacity to act;
- 2.5. any witness deemed necessary by the court.
3. The hearing and issuance shall be held in the absence of the perpetrator where such individual was properly summoned and the petition is supported by sufficient evidence.
4. The court shall immediately summon the persons referred to in paragraph 2 of the present article, in accordance with the Law on Contentious Procedure.
5. The petition shall be considered withdrawn if neither the protected party nor the authorized representative of the protected party appear at the hearing, where such persons were properly summoned and did not inform the court for the reasons of their absence.
6. The withdrawal of the petition does not prevent the submission of another petition.

Article 16 Review of Petition for Emergency Protection Order

1. The court shall decide on a petition for an emergency protection order within twenty-four (24) hours after the submission of the petition.
2. In reviewing a petition for an emergency protection order, the court shall hold a hearing so that the following persons may be heard:
 - 2.1. the protected party, the authorized representative, or the victims advocate;
 - 2.2. the perpetrator or an authorized representative;
 - 2.3. the petitioner; and
 - 2.4. any witness, who knows about the domestic violence.
3. The court may hold a hearing and issuance of the protection order in the absence of the perpetrator, where appropriate, by applying also other alternative measures including electronic ones.

Article 17 Issuance of Protection Order and Emergency Protection Order

1. The competent court shall issue a protection order or emergency protection order, where it suspects that the perpetrator shall unavoidably risk the health, safety or wellbeing of the protected party and the person who has a domestic relationship with the protected party and who is to be protected by the protection order or emergency protection order.
2. A protection order or emergency protection order is executed immediately with a respective decision, issued by the competent court and shall be sent immediately to

the domestic violence perpetrator, Kosovo Police, social welfare centers, as well as other parties in procedure.

3. Upon expiry of a protection order or emergency protection order, all imposed limitations shall cease to be effective.

Article 18

Contents of a Protection Order and Emergency Protection Order

1. In the protection order shall be stated:
 - 1.1. the protection measure ordered by the court;
 - 1.2. non-enforcement of the protective order constitute criminal offence;
 - 1.3. a notification on the right to appeal;
 - 1.4. a notification that the perpetrator may be assisted by authorized representative.
2. The duration of the prosecution order shall not exceed twelve (12) months, but with possible extension of no more than twenty-four (24) months.
3. In the emergency protection order shall be stated:
 - 3.1. the protection measure ordered by the Court;
 - 3.2. non-enforcement of the emergent protective order constitutes a criminal offence;
 - 3.3. a notification on the right to appeal;
 - 3.4. the date of the hearing for the confirmation of the emergency protection order, which shall be within eight (8) days of the issuance of the emergency protection order;
 - 3.5. a notification that the perpetrator may be assisted by authorized representative.
4. The duration of the emergency protection order shall expire at the end of the hearing for the confirmation of the emergency protection order.
5. At the hearing for the confirmation of the emergency protection order, the court may:
 - 5.1. order the termination of the emergency protection order; or
 - 5.2. issue a protection order.

Article 19

Appeals

1. An appeal against a decision on a protection order may be filed within eight (8) days from the day of issuance of such decision.
2. An appeal, against a decision on emergent protective order, may be filed by an unsatisfied party, within three (3) days from the day of issuance of such decision.
3. The filing of an appeal shall not stay the execution of a protection order or emergency protection order.

Article 20

Modification, Termination and Extension of Protection Order

1. When the circumstances have changed, the protected party or the perpetrator may submit a petition to the court for the modification or termination of a protection order, where the court may decide that the protection order:

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- 1.1. to remain in force;
- 1.2. to be modified;
- 1.3. to be terminated, where the Court assesses that all causes on basis of which the protection order was issued have ceased to exist.
2. The submission of a petition for the modification or termination of a protection order shall not suspend the execution of the protection order.
3. Within fifteen (15) days prior to the expiration of a protection order, the protected party or his/her authorized representative may submit a petition for the extension of the protection order. If no petition for extension is submitted, the protection order will terminate immediately on the day of expiration.
4. Upon receipt of a petition for the extension of a protection order, the court may:
 - 4.1. terminate the protection order on its date of expiration; or
 - 4.2. order the extension of the protection order, where the causes on basis of which the protection order was issued have ceased to exist.

Article 21

Modification, Termination and Extension of Emergency Protection Orders

1. Upon review of an appeal filed by the perpetrator or an authorized person, the Court may decide to confirm the emergency protection order, its modification or termination.
2. Within two (2) days prior to the expiration of an emergency protection order, the protected party or his or her legal representative, or the victims advocate may submit a petition for the extension of the emergency protection order.
3. If no petition for extension is submitted for an emergency protection order, the order will terminate immediately on the day of expiration.
4. Upon receipt of a petition for the extension of an emergency protection order, the court may:
 - 4.1. order the extension of the emergency protection order, where the causes on basis of which the protection order was issued continue to exist.
 - 4.2. terminate the emergency protection order on its date of expiration.

Article 22

Temporary Emergency Protection Order

1. Outside working hours of courts, a petition for a temporary emergency protection order may be submitted to Kosovo Police by:
 - 1.1. the protected party;
 - 1.2. the authorized representative or victims advocate;
 - 1.3. a person with whom the protector party has a domestic relationship;
 - 1.4. a representative from the Center for Social Work where the protected party permanently or temporarily resides;
 - 1.5. a person with direct knowledge of an act or more acts of domestic violence against the petitioner.
2. The duration of the temporary emergency protection shall expire on the end of the next day that the court is in operation.

3. The Head of the Regional Kosovo Police Unit against Domestic Violence, may issue a temporary emergency protection order and order one or more of the measures referred to Articles 5, 6, 7 and 10 of this Law, if he or she determines that:
 - 3.1. there are grounds to believe that the perpetrator has committed or threatened to commit an act of domestic violence;
 - 3.2. the perpetrator poses an immediate or imminent threat to the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order; and
 - 3.3. the issuance of a temporary emergency protection order is necessary to protect the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order.
4. A petition for temporary emergency protection order may be submitted to the Kosovo Police by the NGOs that have reliable information for domestic violence and are familiar with the victim.

Article 23

Contents of the Temporary Emergency Protection Order

1. In the temporary emergency protection order shall be stated:
 - 1.1. the measure ordered by the Head of the Kosovo Police Regional Unit against Domestic Violence;
 - 1.2. the duration of the temporary emergency protection order, which shall expire on the end of the next day that the court is in operation;
 - 1.3. a warning that a violation of the interim emergency protection order constitutes a criminal offence;
 - 1.4. a notification that the perpetrator may be assisted by legal counsel in the legal procedures, and
 - 1.5. an explanation that after the expiry of the temporary emergency protection order, the protected party may file a petition for an emergency protection order which, if granted, would be subject to a confirmation hearing or a petition for a protection order against which there is submitted appeal.
2. A temporary emergency protection order issued by the Head of the Kosovo Police Regional Unit against Domestic Violence shall immediately be served on the perpetrator, in accordance with the Law.
3. The law enforcement authorities shall immediately deliver one copy of the temporary emergency order to each of the following persons:
 - 3.1. the protected party and other persons named in the temporary emergency protection order;
 - 3.2. the petitioner;
 - 3.3. the local police station in the localities where the protected party and other persons named in the temporary emergency protection order reside on a permanent or temporary basis;
 - 3.4. the Center for Social Work in the municipality where the protected party and other persons named in the temporary emergency protection order reside on a permanent or temporary basis;

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- 3.5. the competent municipal court; and
- 3.6. victim protector.
4. A temporary emergency protection order shall be effective immediately upon issuance by the Head of the Kosovo Police Regional Unit against Domestic Violence or the acting Head of the Kosovo Police Regional Unit and shall be enforceable against the perpetrator after it had been delivered personally to him.

Article 24 **Responsibilities of the Kosovo Police**

1. Kosovo Police shall respond to any report for acts or threats to commit acts of domestic violence or a violation of a protection order or emergency protection order, regardless of who reports.
2. Where there are grounds for suspicion that a crime involving domestic violence was committed, Kosovo Police shall arrest the alleged perpetrator according to the law.
3. Kosovo Police shall use reasonable means to protect the victim and prevent further violence, including, but not limited to:
 - 3.1. assuring the special telephonic line for reporting domestic violence;
 - 3.2. informing the victim or the legal representative or the protector of the victim for his rights pursuant to this Law, including the right to request a temporary emergency protection order pursuant to Article 22 of the present Law;
 - 3.3. informing the victim about legal, psychological, and other assistance services available from governmental institutions as well as from the authorized network of non-governmental organizations providing services for the victims;
 - 3.4. informing the relevant service providers referred to in paragraph 3.2 of this Article regarding the incident of domestic violence and facilitating contact between the service provider and the victim, upon the request of the victim;
 - 3.5. providing transport for the victim and the victim's dependants to an appropriate medical facility for treatment or a medical examination;
 - 3.6. providing transport for the victim and when necessary also the victim's dependants to a shelter or other suitable safe haven, upon the request of the victim;
 - 3.7. if it is need, providing protection to the reporter of violence in accordance with relevant legal obligations regarding protection of witnesses;
 - 3.8. removing the perpetrator from the temporary or permanent residence of the protected party or a portion thereof, where the envisaged measure is imposed by means of a protection order or emergency protection order as per Article 7 of this Law;
 - 3.9. providing the victim or the legal representative of the victim an official contact for an investigating officer within the Kosovo Police should further assistance be required. In case of the absence of the investigating officer, any other officer within the Kosovo Police will assist the victim.
4. The law enforcement authorities shall complete an incident report whether or not a crime was committed or an arrest was made and provide a copy of the incident report to the victim or the legal representative of the victim.

5. Where the victim is a person under the age of eighteen (18) years or a person who does not have capacity to act, or where the acts of domestic violence are so grave as to impact the safety or security of a person under the age of eighteen (18), or a person who does not have the full capacity to act living in the same residence, the law enforcement authorities shall immediately report the incident to the Center for Social Work of the Municipality where that person permanently or temporarily resides.
6. Where there are grounds for suspicion that a crime involving domestic violence was committed, whether or not the suspected perpetrator has been arrested or his whereabouts ascertained, the Kosovo Police shall regularly provide the victim or the legal representative of the victim with an update on the status of the investigation, including any information on the whereabouts of the suspected perpetrator or his or her release from custody.

Article 25
Violation of Protection Orders

1. Whoever violates a protection order, emergency protection order or an interim emergency protection order, in whole or in part, commits a criminal offence and shall be sentenced to a fine of two hundred (200) euro to two thousand (2000) euro or imprisonment of up to six (6) months.
2. The continues repetition of the violation in whole or in part of a protection order, emergency protection order or an interim emergency protection order shall be considered aggravating circumstances for the perpetrator.

Article 26
Prosecution of Criminal Offences Related to Domestic Violence

1. A violation of a protection order, emergency protection order or a temporary protection order shall be immediately prosecuted *ex officio*.
2. Issuance of a protection order or of an emergency protection order through a court decision shall not prevent the interested parties to file criminal proceedings regarding actions or inactions constituting criminal offences.

Article 27
Kosovo Program against Domestic Violence

Ministry for Labor and Social Welfare, in cooperation with: Ministry of Health, j Ministry of Justice, Ministry of Internal Affairs, Ministry of Culture, Youth and Sports and Ministry of Education is responsible for support and raise ancillary structures and necessary infrastructure, which serves to support and meet the needs of persons against whom domestic violence is exercised, including social assistance and medical services, in accordance with applicable law.

**CHAPTER II
TRANSITIONAL AND FINAL PROVISION**

**Article 28
Implementation**

1. Kosovo Government, six (6) months after entry into force of this Law, issues sub-legal acts arising from this Law.
2. For cases on which a legal procedure has started up to the point of entry into force of this law, applicable provisions shall apply.

**Article 29
Abrogation**

This Law abrogates UNMIK Regulation No. 2003/12 on Protection against Domestic Violence.

**Article 30
Entry into force**

This law shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.

**Law No.03/L –182
1 July 2010**

Promulgated by the Decree No. DL-036-2010, dated 15.07.2010, of the President of Republic of Kosovo, Dr. Fatmir Sejdiu.

OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / PRISTINA: YEAR V / No. 76 / 10 AUGUST 2010

**LAW No. 04/L-149
ON EXECUTION OF PENAL SANCTIONS**

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Criminal laws

Assembly of Republic of Kosovo;

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON EXECUTION OF PENAL SANCTIONS

PART ONE GENERAL PART

CHAPTER I BASIC PROVISIONS

Article 1 Purpose of the Law

Purpose of this law is execution of penal sanctions, sanctions on offences and measures of mandatory treatment, and application of detention measure.

Article 2 Scope of the Law

1. Penal sanctions shall be executed in accordance with the present Law.
2. For the purposes of the present Law, penal sanctions are principal punishments, alternative punishments, accessory punishments and judicial admonition.
3. Execution of mandatory treatment measures of rehabilitation shall be carried out in accordance with the present Law.

Article 3 Execution of penal sanctions imposed by domestic and foreign courts

The provisions of the present Law shall apply to the execution of penal sanctions imposed by domestic and foreign courts in accordance with the Code of Criminal Procedure, Juvenile Justice Code, Law on Offence and international agreements.

Article 4 The purpose of the execution of criminal sanctions

The execution of penal sanctions shall aim at the re-socialization and reintegration of the convicted person into society and prepare him or her to conduct his or her life in a socially responsible way. The execution of penal sanctions shall also serve the purpose of protecting society by preventing the commission of further criminal offences and restraining others from committing criminal offences

Article 5
Guiding Principles

1. Penal sanctions shall be executed in such a way as to assure humanity of treatment and respect for the dignity of each individual. The convicted person shall not be subject to torture or to inhuman or degrading treatment or punishment.
2. Penal sanctions shall be executed with absolute impartiality. No one shall be discriminated on ground of race, color, gender, language, religious beliefs, political opinion or other, national or social origin, affiliation to a community, property, economic and social status, sexual orientation, birth status, disability or other personal status in the Republic of Kosovo.
3. For the purpose of eliminating the causes of corruption in the Correctional Service, correctional institutions and the Probation Service and in compliance with the present Law, the respective secondary legislation to be issued for the implementation of the present Law shall provide for anti-corruptive provisions in particular the promotion and existence of a clear system of rewards and sanctions as part of the implementation of the action program, development of ethical standards, etc., as mechanisms to fight corruption.
4. During the execution of a penal sanction, the rights of the convicted person shall always be respected. These rights may be restricted only to the extent necessary for the execution of the penal sanction, in compliance with the applicable law and international human rights standards.
5. The execution of penal sanctions and should, as far as possible, stimulate the participation of the convicted person in his or her own social reintegration and re-socialization, through the planning of conviction and individual plan, as well as the cooperation of society in achieving such aims.
6. The aim of re-socializing and reintegrating the convicted person into the community shall also be pursued by urging and organizing the participation of public and private institutions or bodies, as well as of individuals, in the reintegration process.

Article 6
Commencement of execution of penal sanctions

1. The execution of a penal sanction shall commence when the decision by which the penal sanction is imposed becomes final and there is no legal impediment to the execution of the penal sanction.
2. The execution of a penal sanction may commence before the decision by which the penal sanction is imposed becomes final only exceptionally in the cases when it is expressly provided by law.

Article 7
Postponement and suspension of penal sanction

The execution of a penal sanction may be stayed and suspended under conditions provided by law.

Article 8
Administrative fees for submissions

Administrative fees shall not be paid in regard to submissions, official actions and decisions in connection with the application of the provisions of the present Law, unless otherwise provided by law.

Article 9
Maintenance of records

1. Appropriate records shall be maintained on persons against whom penal sanctions and detention on remand are executed.
2. Minister of Justice (hereinafter referred to as: the Minister) shall regulate with secondary legislation the maintenance and collection of records.

Article 10
Resources for the execution of penal sanctions

1. Resources for the execution of penal sanctions shall be provided by the budget of the Republic of Kosovo.
2. The convicted person shall not pay the costs of executing a penal sanction, unless otherwise provided by law.

PART TWO
EXECUTION OF PRINCIPAL PUNISHMENTS

CHAPTER II
EXECUTION OF IMPRISONMENT AND LIFE IMPRISONMENT

Article 11
Sending the convicted person to a correctional facility

1. Persons sentenced to imprisonment and life imprisonment shall be sent to correctional facilities for the execution of imprisonment and life imprisonment in accordance with an act enforced by the Minister.
2. Exceptionally, on the request of the convicted person, the General Director of the Correctional Service, for justifiable reasons may waive the enforced act and change the place of execution of the sentence. The Minister should be notified in written as soon as possible on this matter and on the reasons for change.
3. The appeal of the Minister against the decision of the General Director of the Correctional Service from paragraph 2. of this Article is allowed within a time period of three (3) days from the day of receiving the decision. The appeal does not cease the execution of the decision.

Article 12

Placement of the convicted persons in the correctional facilities

1. A person sentenced to imprisonment may be placed in a detention centre if the duration of the imprisonment after taking account of detention on remand or other deprivation of liberty in connection with the criminal offence does not exceed three (3) months.
2. A person sentenced to imprisonment shall be placed in a correctional facility if the duration of the imprisonment, after taking account of detention on remand or other deprivation of liberty in connection with the criminal offence, exceeds three (3) months.
3. A person sentenced to life imprisonment shall be placed in a correctional facility.

Article 13

Actions which precede sending convicted persons to correctional facilities

1. If a court that rendered the first-instance decision does not have jurisdiction to send the convicted person to serve a sentence of imprisonment or life imprisonment, it shall send the final decision together with personal data on the convicted person collected during the criminal proceedings to the competent court within three (3) days of the day on which the decision becomes final.
2. Within three (3) days of receiving the decision, the competent court should initiate the process of sending the convicted person to serve the sentence of imprisonment or life imprisonment.

Article 14

Jurisdiction to send convicted persons to serve sentences of imprisonment or life imprisonment

1. The basic court that imposed the sentence shall have jurisdiction to send the convicted person to serve a sentence of imprisonment or life imprisonment.
2. The same court shall maintain its jurisdiction if the current or permanent residence of the convicted person subsequently changes.

Article 15

Competent Court for sending the person to serve the sentence when the residence of convicted person is unknown

When the current and the permanent residence of the convicted person are unknown, the basic court that rendered the first-instance decision shall have jurisdiction to send the convicted person to serve a sentence of imprisonment or life imprisonment and if this decision was rendered by the Appeal Court, the basic court at the seat of the Appeal Court shall have jurisdiction.

Article 16

Court order to appear in the institution to serve the sentence

1. The competent court shall order the convicted person in writing to report to the correctional facility to serve the sentence of imprisonment or life imprisonment on a specific day.
2. The period of time between the receipt of the order and the day of reporting shall be no less than eight (8) days and no more than fifteen (15) days.
3. The competent court shall inform the correctional facility of the date on which the convicted person shall report and deliver the final decision along with personal information about the convicted person collected during the criminal proceedings.

Article 17

Commencement of execution of imprisonment or life imprisonment sentence

1. The correctional facility shall inform the competent court whether the convicted person reported to serve the sentence.
2. Service of the sentence of imprisonment or life imprisonment shall be counted from the day on which the convicted person reported to the correctional facility.

Article 18

Compelling the convicted person serve the sentence

1. If a convicted person who has been properly summoned to service of sentence does not report to the correctional facility, the court shall order that he or she be brought forcibly. If the convicted person hides or is at large, the court shall order the issuance of a wanted notice.
2. Execution of the sentence of imprisonment or life imprisonment shall be counted from the day on which the convicted person is deprived of liberty.

Article 19

Transportation expenses

1. The correctional facility shall compensate the convicted person for public transportation expenses from the place of permanent or current residence of the convicted person to the correctional facility.
2. The convicted person shall pay the expenses of being brought forcibly to the correctional facility.

Article 20

Postponement of execution of sentences of imprisonment

1. The execution of a sentence of imprisonment can be postponed upon the request of the convicted person:
 - 1.1. until the end of an illness, if the convicted person is suffering from a serious acute illness;

- 1.2. until, at the latest, the end of the third year of life of the child, if the female convicted person has completed the sixth month of pregnancy or has a child younger than one (1) year of age;
 - 1.3. until, at the latest, three (3) months from the day of the commencement of the stay of execution, if a spouse, a child, an adopted child, a parent or an adoptive parent of the convicted person has died or is suffering from a serious illness;
 - 1.4. until, at the latest, six (6) months from the day of commencement of the postponement of execution, if the wife of the convicted person has three (3) months until the day of giving birth, or if less than six (6) months have elapsed from the day on which she gave birth and there is no other member of the household who would help her;
 - 1.5. until, at the latest, six (6) months from the day of commencement of the postponement of execution, if the spouse or some other member of the family union of the convicted person is summoned with the convicted person to serve a sentence if any of them is already in prison;
 - 1.6. until, at the latest, three (3) months from the day of commencement of the postponement of execution, if the postponement is required by the convicted person for agricultural or seasonal work which cannot be delayed or work caused by some accident and the family of the convicted person does not have the necessary manpower;
 - 1.7. until, at the latest, three (3) months from the day of commencement of the postponement of execution, if the convicted person is obliged to complete work which has already been started and considerable damage may result from the failure to complete it;
 - 1.8. until, at the latest, six (6) months from the day of commencement of the postponement of execution, if the convicted person requires a postponement to complete schooling or to take an examination for which he or she has prepared.
2. The day on which the ruling on the postponement of execution is rendered shall be considered the day of commencement of the postponement of execution.
 3. The convicted can require postponing the sentence at most twice for any of the reasons foreseen with this Article.
 4. Execution of the sentence can not be postponed, if the execution of the sentence, or of a part of the sentence shall become impossible because of the prescription.

Article 21

Procedure for postponement of execution of sentence of imprisonment

1. A convicted person shall submit a request for a postponement of execution of a sentence within seven (7) days of receiving an order for serving the sentence of imprisonment.
2. If the order can not be submitted to the defendant then it will be submitted to one of the adult members of the family, or the notification shall be left on the day and hour of submission. If the defendant is not present in his/her address on certain day and time the order will be stuck on the door. Such submission is considered as regular.

3. If a serious acute illness of the convicted person or the death of his or her spouse, child, an adopted child, parent or adoptive parent occurs after the expiry of the seven (7) days period, the request may be submitted up to the day on which the convicted person is required to report to serve the sentence.
4. The request for a postponement of execution shall cite the reasons for the postponement, shall enclose evidence that supports the reasons and shall state the period of time for which the postponement is requested.

Article 22

Request to postpone the sentence execution

1. The request for a postponement of execution of a sentence shall be submitted to the president of the competent basic court.
2. If evidence is not enclosed with the request, the president of the basic court shall order the convicted person to submit the evidence within eight (8) days, and shall warn him or her that the failure to do so will result in the dismissal of the request.

Article 23

Decision regarding the request to postpone the sentence execution

1. The president of the competent basic court shall decide on the request for a postponement of execution of a sentence within three (3) days of receipt of the request. Before rendering the ruling, the court may carry out necessary investigations in order to confirm the facts stated in the request.
2. The president of the competent basic court shall dismiss a request for a postponement of execution of a sentence if the request:
 - 2.1. is not submitted on time;
 - 2.2. is submitted by an unauthorized person;
 - 2.3. is not enclosed duly with the supporting evidence.

Article 24

Appeal

1. A convicted person may file an appeal against a first instance ruling to the president of the Appeal court within three (3) days of receipt of the ruling.
2. The president of the Appeal court shall decide on the appeal within three (3) days of its receipt.

Article 25

Suspension of sentence execution because of the request for postponement of execution

1. The request for a postponement of execution postpones the execution of the sentence of imprisonment until the final ruling on the request.
2. The president of competent basic court who, after the second dismissal of a request establishes that the right to request a postponement has been abused, shall decide that an appeal shall not postpone the execution of the decision.

Article 26

Report on health condition due to serious illness

A convicted person for whom the execution of a sentence has been postponed due to serious acute illness must submit a report on his or her state of health by the medical institution where he or she is being treated once every three (3) months or, on the request of the competent court, more frequently.

Article 27

Revocation and termination of the postponement of execution of a sentence of imprisonment

1. The president of the competent basic court shall revoke the postponement of execution of a sentence of imprisonment if, in the meantime it is established that the reasons for granting the postponement did not exist or have ceased to exist, or that the convicted person has used the period of the postponement for a purpose other than that for which it was granted.
2. If the postponement has been granted to a pregnant woman whose child is not born alive, the postponement shall be terminated six (6) months after the delivery, and if the child dies after the delivery the postponement shall be terminated six (6) months after the death of the child.
3. If a postponement has been granted to a mother of a child younger than one (1) year of age who dies, the postponement shall be terminated six (6) months after the death of the child.

Article 28

Appeal against the decision to revoke, or terminate the postponement of execution of sentence of imprisonment

1. The convicted person of imprisonment has the right to appeal against a ruling on the revocation or termination of the postponement of execution of sentence of imprisonment under the same conditions as against a ruling by which a request for a postponement is decided upon.
2. The appeal postpones the execution of the ruling.

Article 29

Postponement of execution in regard to extraordinary legal remedies

1. The court that decides on a request for reopening criminal proceedings submitted in favor of a convicted person may postpone the execution of a sentence of imprisonment, even before the entry into force of the ruling allowing the reopening of criminal proceedings.
2. The court that decides on a request for the extraordinary mitigation of punishment may postpone the execution of sentence, depending on the content of the request.

Article 30

Permission to postpone the execution of sentence of imprisonment at the request of State Prosecutor

1. A postponement of execution of a sentence of imprisonment shall always be granted on the request of the competent state prosecutor until a decision on the use of a legal remedy is rendered.
2. A decision on the postponement of execution of a sentence of imprisonment ceases to have effect if the state prosecutor does not use a legal remedy within thirty (30) days of receipt of the decision on the postponement of execution.

Article 31

Receiving a convicted person at correctional facility

1. When a convicted person is admitted to a correctional facility, his or her identity and the grounds and authority for his or her imprisonment or life imprisonment shall first be established and then he or she shall undergo a medical examination within twenty four (24) hours of arrival or on the first working day after arrival. The name of the convicted person, the grounds and authority for his or her imprisonment or life imprisonment and the date and time of his or her arrival at the correctional facility, control and medical report shall be recorded in a register.
2. On the occasion of admission to a correctional facility, the convicted person shall be informed in written about the rights and obligations entitled to during the service of sentence. An illiterate convicted person shall be given this information orally.
3. The text of the present Law and the secondary legislation on domestic order within correctional facilities shall be available in the languages of convicted persons, while serving the sentence, in compliance with the Law on the Use of Official Languages.
4. The procedures under paragraphs 1, 2 and 3 of the present Article shall not, be carried out in the presence of other convicted persons. The convicted person shall be photographed.

Article 32

Domestic order

1. The secondary legislation on domestic order within correctional institutions (hereinafter referred to as: the domestic order act), to be issued by the Minister, shall regulate the organization and way of life of convicted persons and detained persons, in particular:
 - 1.1. admission and accommodation;
 - 1.2. informing them on the domestic order and other provisions;
 - 1.3. food, health care and implementation of hygienic measures;
 - 1.4. way of exercising religious needs;
 - 1.5. correspondences, visits and receipt of packages;
 - 1.6. types and quantities of food products that may be received;

- 1.7. terms and forms of keeping cash gained as a compensation for work and rewards;
- 1.8. form of using the annual leave;
- 1.9. keeping order and discipline;
- 1.10. system of disciplinary violations and sanctions;
- 1.11. terms and form of application of disciplinary measures, measures of solitary confinement;
- 1.12. types of benefits, conditions and forms of utilizing all benefits;
- 1.13. organization of cultural, educational, sports and entertainment activities;
- 1.14. staying in the open space;
- 1.15. release and assistance when releasing from the imprisonment sentence or from detention;
- 1.16. other issues that may be important for the conditions and form of serving the imprisonment sentence and detention.

Article 33

Placement of convicted persons within a correctional facility

1. The correctional facility shall allow the convicted person to call family members immediately after admission. A foreign national shall be provided with the opportunity to contact a representative of the liaison office or diplomatic mission of his or her State of nationality in writing or by telephone.
2. If the convicted person has minor children or persons for whom he has the exclusive responsibility to care, the correctional facility shall inform the Guardianship Authority about this.
3. The placement of a convicted person in a particular correctional facility or in a particular unit of a correctional facility should take into account his or her age, the type of sentences, their weight of sentences and the fact that he or she was previously sentenced, his or her physical and mental health, any special treatment requirements, the location of the current or permanent residence of his or her family and security, as well as reasons pertaining to education or work that might be relevant for his or her social re-integration and other criteria determined with secondary legislation which shall be issued by the Minister.
4. The placement of a convicted person should also take into account the possibility of carrying out common rehabilitation programs as well as the need to avoid negative influences.
5. Male and female convicted persons shall be accommodated separately. Pregnant women, childbearing women and mothers who are caring for their children shall be accommodated separately from other sentenced women.
6. Adults shall not be accommodated in the same correctional institution or in one part of the correctional institution where the minors are.
7. Convicted persons shall not be accommodated in the same part of the facility as persons detained on remand.
8. All efforts should be made to separate persons sentenced for the first time and persons who have previously served a prison sentence.

Article 34
Separation from convicted persons

1. Upon the request of a convicted person, the director of the correctional facility may permit the convicted person to be separated from other convicted persons in a special unit of the correctional facility if the director determines that the reasons underlying the convicted person's request are reasonable and there are no other alternatives for addressing his or her concerns.
2. The director of the correctional facility may order a convicted person to be separated from other convicted persons, without the request of the convicted person for such separation, only if such measure is necessary:
 - 2.1. to avert danger to the life or health of the convicted person or other persons;
 - 2.2. to avert a threat to the security of the correctional facility posed by the continued presence of the convicted person and in the general prison population; or
 - 2.3. to ensure the integrity of an investigation of a disciplinary matter.
3. A decision under paragraphs 1. and 2. of the present article shall be made after an investigation of all relevant circumstances. Separation may not be ordered for a period exceeding thirty (30) days. Such decision shall be reviewed as often as there is a reason to do so and, in any case, once every ten (10) days.
4. Where separation has been ordered to prevent the convicted person from influencing another convicted person to seriously disturb order within the correctional facility or to prevent the commission of continued criminal activity in the correctional facility, the convicted person may be placed in a special unit of the correctional facility if the separation is expected to be of a long duration.
5. The director of the correctional facility may order a convicted person who behaves violently to be separated from other convicted persons, without the request of the convicted person for such separation, for as long as is necessary to restrain the violent behavior of the convicted person.
6. A convicted person separated from other convicted persons shall be accorded the same rights, privileges and conditions as those enjoyed by the general prison population except for those privileges that can only be enjoyed in association with other prisoners or cannot be reasonably provided owing to the limitations specific to the unit of the correctional facility where the separated convicted person is placed.
7. The qualified medical personnel shall examine the convicted person at least once a day and as necessary.
8. A decision to separate a convicted person from other convicted persons shall be terminated as soon as the grounds for ordering the separation cease to exist or where a medical officer determines continued separation will be harmful to the health of the convicted person.

Article 35
Searches

1. No search of a convicted person shall be conducted in a manner which undermines his or her dignity. The intrusiveness of a search of a convicted person shall be proportionate to its purpose as set forth in the present Article.

2. If a correctional staff member has a reasonable suspicion that a convicted person has in possession an item that he or she is not permitted to have in his or her possession pursuant to the rules on internal order an unauthorized item, a search of the convicted person may be conducted manually or by technical means, while he or she is clothed. A manual search shall be conducted by a correctional staff member of the same gender as the convicted person.
3. A correctional staff member may conduct a search by visual inspection of the convicted person's naked body, without individualized suspicion, in accordance with the conditions set forth in paragraph 6. of this Article:
 - 3.1. in prescribed circumstances, set out in a secondary legislation, limited to situations in which the convicted person has been in a place where there was a likelihood of access to an unauthorized item that is capable of being hidden on or in the body; or
 - 3.2. when the convicted person is entering or leaving the area for separated convicted persons.
4. If a correctional staff member has a reasonable suspicion that a convicted person is in possession of an unauthorized item and has satisfied the director of the correctional facility that a search by visual inspection of the convicted person's naked body is necessary to find the unauthorized item, such search may be conducted in accordance with the conditions set forth in a paragraph 6. of this Article.
5. If a correctional staff member has a reasonable suspicion that a convicted person possesses an unauthorized item and that a search by visual inspection of the convicted person's naked body is necessary to find the unauthorized item, he or she may conduct such search in accordance with the conditions set forth in paragraph 6. of this Article, without the prior approval of the director of the correctional facility, if the delay caused by seeking such approval would result in danger to human life or safety.
6. A search by visual check of the convicted person's naked body:
 - 6.1. shall be conducted by two (2) correctional staff of the same gender as the convicted person and in a private area out of sight of other persons;
 - 6.2. shall never be conducted in the presence of persons of different gender from the convicted person; and
 - 6.3. shall not involve the undressing of the upper and lower parts of the body of the convicted person at the same time.
7. If a correctional staff member has a grounded suspicion that a convicted person possess of an unauthorized item hidden in his or her body cavities, he or she shall inform the director of the correctional facility. If the director of the correctional facility is satisfied that there is a grounded suspicion that the convicted person is in possession of an unauthorized item hidden in his or her body cavities and that a physical examination of his or her body cavities is necessary to find the unauthorized item, the director may issue a written authorization for such physical examination with the consent of the convicted person. Such physical examination shall be conducted only by a medical officer of the same gender as the convicted person, in a private area.
8. Any unauthorized item discovered as a result of a search or physical examination of body cavities may be confiscated.

9. A search of the cell of a convicted person shall be conducted with respect for his or her personal property.

Article 36
Accommodation of convicted persons

1. A convicted person has a right to accommodation which corresponds to contemporary hygienic conditions and local climatic circumstances.
2. The premises in which a convicted person lives and works must be of sufficient space for each convicted person to have at a minimum eight (8) cubic meters of space, when is possible and nine (9) cubic meters for the convicted in joint cells and four (4) cubic meters for single cells, and an adequate amount of natural and artificial lighting for work and reading, heating and ventilation.
3. The premises may not be damp and they must have adequate sanitary installations and other devices necessary for personal hygiene.
4. Where accommodation is shared, it shall be occupied by convicted persons suitable to associate with others in those conditions.

Article 37
Physical Exercises

A convicted person has the right to exercise sufficiently in order to remain healthy and to spend at least two (2) hours daily outside closed premises during free time. If the weather permits, a convicted person may engage in physical exercise in the open air.

Article 38
Hygiene

1. The hygiene of convicted persons and the hygiene of premises shall be regularly monitored in correctional facilities.
2. In order to ensure the hygiene of convicted persons and the hygiene of premises, convicted persons shall be provided with sufficient cold and hot water, and appropriate toilet and cleaning articles. Installations and devices for personal hygiene shall assure sufficient privacy and shall be well-maintained and clean.
3. A convicted person shall be provided with a separate bed and sufficient bedding which shall be clean when issued, kept in good order and changed regularly.
4. Standards for hygiene-sanitary conditions shall be regulated through a secondary legislation.

Article 39
Nutrition of convicted persons

1. A convicted person has the right to food suitable for him or her to maintain good health and strength in three (3) meals each day, which must be varied and nutritious. The food provided to a convicted person shall take into account his or her age and health, the nature of his or her work, the season and climatic conditions and, as far as possible, his or her religious and cultural requirements.

2. A convicted person who works in heavier duties, a sick person, a pregnant woman or a woman who has borne a child has the right to food ordered by a physician.
3. A physician or other expert shall check and advise the director of the correctional facility on the quality of meals before delivery and shall record his or her findings in an appropriate book.
4. The Minister shall issue an administrative instruction to regulate closely food of convicted persons.
5. The Correctional Service shall, as a rule, directly manage the service of providing meals to convicted persons in the correctional facility.

Article 40
Continuous availability of drinking water

1. A convicted person must have drinking water continuously available.
2. The medical suitability of food and water, the application of dietary scales and the preparation of meals shall be regularly monitored by the medical service in each correctional facility.

Article 41
Clothing of convicted persons

1. A convicted persons has the right to have free of charge underwear, clothes and shoes which are suited to the local climatic conditions and the time of year.
2. A convicted person has the right to special work clothes, shoes and equipment required by the work that he or she undertakes.

Article 42
Wearing the uniform of correctional facility

1. A convicted person shall wear the uniform of the correctional facility.
2. The clothing of a convicted person may not have a humiliating or degrading effect.
3. The competent public entity in the field of judicial affairs may permit persons in a detention centre, an open correctional facility or an open unit of a correctional facility to wear their own clothes.
4. The director of a correctional facility shall allow detainees on remand and convicted persons to wear their own clothes when they appear in court or go outside the prison, unless this will increase the risk of flight.

Article 43
Health care

1. A convicted person has the right to health care free of charge.
2. A convicted person who cannot be offered appropriate medical treatment in the correctional facility shall be sent to a prison hospital, psychiatric institution or another health care institution.
3. The time spent receiving medical treatment outside the correctional facility is counted in the sentence of imprisonment or life imprisonment.

Article 44
Specialized medical examination

1. Upon the request of the convicted person, the director of the correctional facility may allow a specialist medical examination, if the medical officer has not ordered such an examination.
2. The convicted person shall bear the costs of such an examination, unless the director of the correctional facility decides otherwise.

Article 45
Notifying the family when the convicted person is seriously ill

1. When a convicted person is seriously ill, the correctional facility shall inform his or her spouse, children and adopted children and if the convicted person has no such relations, the correctional facility shall notify his or her parents, adoptive parents, brother, sister or more distant relatives.
2. Upon the request of the convicted person, the director of the correctional facility may approve the notification of other persons about the illness.

Article 46
Health care

1. Health care in a correctional facility shall be implemented in accordance with general regulations on health care, health insurance and medical and pharmaceutical services, unless otherwise provided by the present Law.
2. An appropriate health care facility with the Ministry of Health (hereinafter referred to as: health care facility) shall provide conditions for basic medical services.
3. An appropriate health care facility with the Ministry of Health shall be equipped with a medical service, nursing service and pharmacy service in order to meet the health care needs of convicted persons.

Article 47
Medical examinations and visits

1. A medical officer shall see and examine every convicted person after admission and thereafter, as necessary, in order to identify possible physical or mental diseases and to take all measures necessary for medical treatment.
2. Health care is provided during service of sentence of imprisonment or life imprisonment by periodic and frequent examinations, regardless of whether a request is made by the convicted person.
3. A medical officer shall visit daily all sick persons, persons who report illness or injury and persons to whom attention is specially directed. The medical officer shall report immediately the presence of illness requiring particular investigation and specialist care.
4. When a convicted person exhibits behavior indicating that he or she may attempt to harm him or herself or to commit suicide, staff shall take all the necessary

measures to prevent self-injury or suicide. If a convicted person attempts to harm him or herself or to commit suicide, a professional multidisciplinary team shall initiate the action necessary to assist him or her to address whatever is causing him or her to be inclined to attempt such action.

5. A convicted person suspected or diagnosed as suffering from an infectious or contagious disease shall be immediately treated. When a mental disorder or an emotional disturbance is suspected, appropriate measures shall be taken without delay, in accordance with the applicable law and rules concerning psychiatric assistance and mental health.

Article 48 **Medical care**

1. A medical care, a psychiatric or psychological assessment or treatment a procedure may only be applied to a convicted person with his or her consent.
2. Pursuant to paragraph 1. of the present Article, the convicted person may refuse to consent. In the event that a convicted person refuses to consent, he or she shall normally be asked to sign a statement of disagreement.
3. To prevent self-injury or injury to others or to property, the correctional facility may use restraint equipment without his or her consent.

Article 49 **Medical findings**

A convicted person's medical information shall be treated as confidential in accordance with professional medical practice and medical codes of ethics.

Article 50 **Notification for deteriorated physical or mental health of the convicted person**

1. A medical officer shall report to the director of the correctional facility whenever he or she considers that the physical or mental health of a convicted person has been or will be adversely affected by continued imprisonment or in life imprisonment or by any condition of imprisonment or life imprisonment.
2. The medical officer, in cooperation with the competent health organ, shall conduct regular inspections of the correctional facility and advise in written the director of the correctional facility on:
 - 2.1. the quantity, quality, preparation and serving of food and water;
 - 2.2. the hygiene and cleanliness of the correctional facility and the convicted persons;
 - 2.3. the hydro sanitarian installations, heating, lighting and ventilation of the correctional facility; and
 - 2.4. the suitability and cleanliness of the convicted person's clothing and bedding.
3. In the event the convicted person suffers from a serious health sickness, then measures will be undertaken to provide him or her with best treatment available.

Article 51

Prohibition to force a convicted person to take food

1. It is prohibited to force a convicted person to take food.
2. If a convicted person refusing food or health care risks his or her life and health, medical measures necessary will be undertaken, even without his or her consent.

Article 52

Providing health care services to pregnant women

1. In the correctional facility for women, health care services for the health care of pregnant women shall be provided by health institution.
2. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in the correctional facility, this fact shall not be mentioned in the birth certificate.

Article 53

Retention of Child by convicted woman

1. A convicted woman who has a child may keep the child until he or she is eighteen (18) months old, and, thereafter, the parents of the child shall agree whether the custody of the child shall be entrusted to the father, other relatives or other persons.
2. If the parents do not agree on the custody of the child or if their agreement is harmful to the child, the court that is competent according to the permanent or current residence of the mother at the time she was sentenced shall decide to whom the child shall be entrusted.
3. When rendering a decision under paragraph 2. of this Article, the court shall give primary consideration to the best interests of the child, including the child's safety and security as well as his or her physical and emotional well being.
4. When a child remains in a correctional facility with his or her mother, special provision shall be made for a nursery staffed by qualified persons, where the child shall be placed when he or she is not in the care of his or her mother

Article 54

Special circumstances and needs for re-socialization in correctional facilities

1. Rehabilitation in a correctional facility shall meet the particular needs of each convicted person. In order to determine all the circumstances and all the factors that are relevant to plan the person's rehabilitation in the correctional facility and his or her social rehabilitation when he or she is released, the observation of the personality shall be carried out at the beginning of the execution of the sentence and continued throughout the sentence.
2. In the course of the execution of the sentence, the rehabilitation program shall be integrated or modified so as to adapt it to the progress observed and to other relevant circumstances. Toward this end, an adequate time schedule shall be provided in the program.

3. The cooperation of the convicted person shall be encouraged in relation to the observation and rehabilitation activities.

Article 55

Individual program for correction and re-socialization

1. On the basis of the recommendations of the professional staff of the correctional facility, the director of the correctional facility shall develop an individual program for correction and rehabilitation of any of sentenced person.
2. The rehabilitation program shall refer to at least the following:
 - 2.1. placement in an institution or a section within an institution;
 - 2.2. participation in educational activities;
 - 2.3. participation in vocational training activities;
 - 2.4. participation in cultural, formative and sport activities;
 - 2.5. work and improvement in professional skills;
 - 2.6. family links and contacts with the outside world;
 - 2.7. conditions for eligibility for home leave, conditional release or early release;
and
 - 2.8. measures aiming at preparation for the final release.

Article 56

The purpose of the reintegration of convicted persons

1. The aim of reintegrating convicted persons into the community shall also be pursued by means of urging and organizing the participation of public and private institutions or bodies, as well as of individuals, in rehabilitation activities.
2. Persons who are interested and demonstrate ability to promote contacts between convicted persons in correctional facilities and the outside community shall be permitted to visit correctional facilities under the supervision of the director on the authorization of the Minister of justice.

Article 57

Submissions

1. A convicted person has the right to send submissions to the competent authorities.
2. A foreign national has the right to send submissions to the liaison office or the diplomatic mission of the State of which he or she is a national or the State which protects his or her interests. A foreign national who is not under the protection of any State has the right to send submissions to competent authorities and organizations in the Republic of Kosovo and competent international organizations.
3. A convicted person may receive and send submissions through the correctional facility.

Article 58
Correspondence

1. A convicted person has an unrestricted right to correspondence.
2. A convicted person has the right to privacy of letters and other means of communication.
3. A letter or another postal item may only be opened if there is a reasonable suspicion that it contains an unauthorized object.
4. The convicted person shall be given an opportunity to be present when a letter or another other postal item addressed to or from him or her is opened pursuant to paragraph 3. of the present Article. If he or she is not present, he or she shall be informed immediately. When a letter or another postal item is opened pursuant to paragraph 3. of the present Article, the contents shall only be examined to the extent necessary to determine whether the letter or postal item contains an unauthorized item.
5. The director of a correctional facility may issue a written decision authorizing that a letter or another postal item be opened and read, if there is a reasonable suspicion that it contains evidence of:
 - 5.1. an act that would endanger the security of the correctional facility or any person;
 - 5.2. a criminal offence or a plan to commit a criminal offence; and
 - 5.3. opening and reading the letter or postal item is the least intrusive measure available in the circumstances.
6. Where a letter or postal item is opened and read pursuant to paragraph 5. of the present Article, the director of the correctional facility shall promptly inform the convicted person in writing of the reasons for such action and shall give the convicted person an opportunity to make representations with respect thereto, unless the information would adversely affect an ongoing investigation, in which case the convicted person shall be informed of the reasons therefore and given an opportunity to make representations with respect thereto on completion of the investigation.
7. A letter or postal item which has been opened and read pursuant to paragraph 5 of the present Article may be withheld if the security of the correctional facility or any person would be endangered. In such case the convicted person shall be informed immediately and, in the case of an incoming letter or postal item which is withheld, he or she shall be informed, to the extent appropriate, of its contents. A letter which has been withheld shall be handed over to the convicted person as soon as the grounds for withholding it cease to exist and at the latest at the end of his or her service of imprisonment, unless exceptionally a competent court decides otherwise. The appeal of the high competent court against the decision of court is allowed. The appeal does not postpone the execution of the decision.
8. Letters and other postal items from convicted persons addressed to the Ombudsperson do not examine.

Article 59

Correspondence with the lawyer by the convicted person

1. A convicted person may correspond with his or her defense counsel without restriction and supervision of the content of the correspondence.
2. Exceptionally, a panel of three (3) judges of the competent basic court may issue a ruling upon the request of the director of the correctional facility that:
 - 2.1. correspondence of a convicted person with his or her defense counsel may be opened if the conditions set forth in paragraph 3. Article 58 of this Law, are met. In such case, paragraph 4. of Article 58 of this Law shall apply.
 - 2.2. the director of the correctional facility may open and read correspondence of a convicted person with his or her defense counsel if the conditions set forth in paragraph 5. Article 58 of this Law are met. In such case, paragraph 6. of Article 58 of this Law shall apply.
3. The ruling of the panel of three (3) judges shall be issued within forty eight (48) hours of the receipt of the request of the director of the correctional facility.

Article 60

Right on phone calls

1. A convicted person has the right to place telephone calls.
2. The provisions of Article 58 of the present law shall be applied suitably for phone call observation as well.

Article 61

Legal assistance

The correctional facility shall facilitate the access of the convicted person to legal assistance in connection with the execution of the sentence of imprisonment or life imprisonment and undertaking necessary actions to protect rights and interests guaranteed by law.

Article 62

Visits

1. A convicted person shall have the right to receive a visit at least once each month for a minimum of one (1) hour by his or her spouse, child, adopted child, parent, adoptive parent and other relatives by blood in a direct line or in a collateral line to the fourth degree.
2. Such visits shall take place in special premises within sight of the staff of the correctional facility.
3. The director of the correctional facility may allow a convicted person to receive visits from other persons.
4. Special rules shall apply to visits to convicted mothers by their children which shall take place on a more regular basis.
5. The president of the competent basic court where the correctional facility is located or his or her delegate may visit and speak to convicted persons at any time at his or her request.

6. Issues regarding the screening of visitors of convicted persons, security during visits, the procedures for specific categories of visitors and the conditions under which visits may be refused or suspended by the director of the correctional facility for security and safety reasons shall be regulated with a secondary legislation on domestic order.

Article 63

Visits by authorized representatives

1. A convicted person may be visited by his or her authorized representative who represents him or her in legal proceedings.
2. The convicted person has the right to communicate confidentially with his or her authorized representative orally. Communications between the convicted person and his or her authorized representative may be within sight but not within the hearing and intercepting range of staff of the correctional facility.

Article 64

Visits of foreign nationals by a consular or diplomatic representative

1. A foreign national has the right to be visited by the consular or diplomatic representative of the State of which he or she is a national or the State which protects his or her interests. A foreign national who is not under the protection of any State has the right to be visited by competent authorities and organizations in Kosovo and competent international organizations.
2. A consular or diplomatic representative of a foreign State and a representative of a competent international organization is obliged to notify the director of the correctional facility of the visit that he or she will conduct in accordance with international legal act executable in Kosovo.

Article 65

Spending time in special premises

1. A convicted person has the right to spend time with his or her spouse and children at least once every three (3) months for minimum of three (3) hours.
2. Time, duration, the manner of visits, nature of visits and spending time in special bars shall be regulated with a secondary legislation on domestic order.

Article 66

Receiving parcels

1. The convicted person has the right to receive parcels containing items for personal use food groceries, drinks and sanitary-hygienic items at least once a month.
2. Parcels shall be inspected in the presence of the convicted person before delivery to him or her.
3. The weight and permissible content of the parcels shall be regulated with a secondary legislation on domestic order.

Article 67
Items retention

1. Convicted persons may not keep with them any objects other than those authorized by the secondary legislation on domestic order.
2. Personal property of convicted persons placed in safe custody by the director of the correctional facility shall be kept in good condition. If it is found necessary to destroy any object, this shall be recorded and the convicted person shall be informed.
3. Any property belonging to a convicted person who remains unclaimed for a period of more than three (3) years after his or her release or death, may be sold or otherwise disposed of. The proceeds of any sale shall be credited to the Kosovo Budget.

Article 68
Money of the convicted person

1. A convicted person may not carry money while serving a sentence of imprisonment or life imprisonment unless this is authorized by the secondary legislation on domestic order.
2. Any money that the prisoner has with him or her on being admitted to a correctional facility must be deposited in a savings account in his or her name, unless he or she decides otherwise.
3. The act on Domestic Order sets the amount of money which the convicted person may freely possess, as well as the amount that he or she deposits in a savings account.

Article 69
Work

1. A convicted person who is capable of working has the right and obligation to work.
2. The purpose of such work is for a convicted person to gain, maintain and develop his or her working capabilities, working practices and professional knowledge in order to begin living a normal life again as soon as possible after serving the sentence.

Article 70

1. The work of convicted persons shall be useful and shall not be degrading.
2. Work may not be imposed as form of disciplinary punishment.
3. Realizing economic profit must not harm the achievement of the purpose of the work or the interests of convicted persons.

Article 71
Work selection

1. A convicted person may choose the type of work he or she prefers to perform, if such choice is practicable and in accordance with an appropriate vocational program.
2. A professional team at the correctional facility shall assess the abilities of the convicted person.

Article 72
Employment of convicted person within or outside the correctional facility

1. A convicted person may be employed inside or outside the correctional facility.
2. The organization and method of work inside a correctional facility shall resemble as closely as possible those of similar work outside a correctional facility.

Article 73
Working hours

1. A convicted person shall work forty (40) hours each week, but working hours may be longer under conditions established by law.
2. A convicted person who attends general or vocational education classes shall work proportionately fewer hours.
3. A convicted person may be ordered to work outside working hours for up to two (2) hours each day on the maintenance of cleanliness and other routine duties in a correctional facility.
4. When, in accordance with general provisions, time spent on work is recognized for the purpose of gaining a professional qualification, time spent on the same type of work during the duration of a sentence of imprisonment or life imprisonment shall also be recognized for that qualification.

Article 74
Monthly remuneration

A convicted person has the right to remuneration for his or her work which shall be paid every month. The remuneration for each category shall be set at an equitable rate to be decided upon by the Minister of Justice and to be established in relation to the quantity, quality the organization of work actually carried out.

Article 75
Disposition of remuneration

1. The convicted person may freely have at his or her disposal seventy percent (70%) of the remuneration for work and the remainder shall be placed in a savings account.
2. The director of correctional facility may approve the expenditure of money from the savings account if the money is essential for the convicted person or his or her family.

Article 76
Right to benefits

1. A convicted person has the right to benefits and safety and health precautions for his or her work in accordance with the general provisions. Provision shall be made to indemnify prisoners against occupational injuries, including occupational disease, on terms not less favorable than those extended by law to workers outside the correctional facility.
2. A correctional facility shall cover the most urgent needs of a convicted person who through no fault of his own cannot work and does not possess money of his or her own.
3. The Minister of Justice should issue a secondary legislation on the terms and conditions of work, including compensation in case of incapacity for work.

Article 77
Maximum daily or weekly working hours for convicted persons

1. The maximum daily and weekly working hours of convicted persons shall be determined in accordance with the general provisions on labor. The hours shall allow one (1) day of rest each week and sufficient time for education and other activities which are necessary as part of the rehabilitation of convicted persons.
2. A convicted person who has worked for more than six (6) months while in the correctional facility shall be entitled to annual vacation in accordance with the general provisions on labor.
3. A convicted person shall be remunerated during the period of his or her annual vacation as if he or she is working.

Article 78
The work rights of the convicted women due to pregnancy, birth and motherhood

A convicted woman has the right not to work because of pregnancy, giving birth and maternity in accordance with the general provisions on labor.

Article 79
Rights related to discoveries and technical innovations

1. A convicted person has all rights pursuant to general provisions in relation to discoveries and technical innovations achieved during the period of serving a sentence.
2. Artistic and other creative works produced by a convicted person during his or her free time are his or her intellectual property.

Article 80
Vocational Training

A correctional institution shall provide opportunities for convicted persons to obtain vocational training to improve their skills or to learn new skills.

Article 81
Organizing vocational training courses

The competent public entities responsible for public education and labor shall cooperate in organizing vocational training courses.

Article 82
Attending vocational training courses

Participation in vocational training courses shall take place during working hours. A convicted person who does not work as a consequence of participation in vocational training courses shall be entitled to an allowance.

Article 83
Education

1. A convicted person has the right to primary and secondary education which shall be in accordance with the law on primary and secondary school education.
2. The Correction Service is responsible for settlement of the infrastructure and location where educational process will take place.
3. The Ministry competent for education is responsible to provide primary and secondary education within correctional facility.
4. Special courses shall be organized for illiterate convicted persons.
5. To the extent possible, the access of convicted persons to education courses provided by mail, radio or television, will be facilitated.
6. A correctional facility shall also organize other forms of education for convicted persons.
7. The education of the convicted persons shall be regulated through a secondary legislation issued by the Minister of Education with the consent of the Minister of Justice.

Article 84
Special programs for school attendance

1. The director of the correctional facility shall allow special arrangements to enable the convicted person to receive primary, secondary, university and other education. The convicted person shall pay the expenses of such special arrangements.
2. Volunteers who wish to assist convicted persons with secondary and university education may be authorized to enter the correctional facility by the director of the correctional facility.

Article 85
The participation in educational courses during working hours

Participation in educational courses shall take place during working hours. A convicted person who does not work as a consequence of participation in educational courses shall be entitled to compensation.

Article 86

Document after completion of vocational training or educational courses

A document issued upon completion of vocational training or educational courses shall not indicate that the courses were completed while the convicted person was in a correctional facility.

Article 87

Information

1. A convicted person has the right to have access to the daily and periodical press in his or her mother tongue and other sources of public information.
2. A convicted person has the right to have access to radio and television programs. The selection of programs shall take account of the preferences of convicted persons as well as their educational and recreational needs.
3. All correctional facilities shall be equipped with a library for the use of convicted persons. The library shall contain books (including basic texts on human rights and criminal laws), magazines and newspapers in the mother tongue of the convicted persons to provide a choice for the convicted persons.
4. Books, magazines and newspapers in the library shall be selected so as to improve the convicted persons' level of knowledge, to develop their ability to have a critical approach to daily events as well as to give them recreational opportunities.
5. A convicted person has the right to read books from the library of the correctional facility and books obtained by himself or herself. The Correctional Service can limit the access in literature that is dangerous for security of correction facility environment or toward security of particular person, that encourages hatred or violence, contains pornographic materials or which in any way influence in appearance of turbulences or different forms of criminality.

Article 88

Cultural, recreational and sport activities

1. Cultural, recreational and sport activities, as well as other activities aimed at the development of the convicted person's personality, shall be organized inside correctional facilities with the assistance of public and private entities interested in reintegrating convicted persons in the community.
2. The active participation of convicted persons in the organization of cultural, recreational and sport events shall be encouraged without prejudice to security and order.

Article 89

Right to practice religion

1. A convicted person has the right to take part in religious ceremonies and to read religious literature.
2. The right to be visited by a qualified representative of a religion cannot be

restricted. The time of visits is determined by the secondary legislation on domestic order.

3. Upon the request of convicted persons, the director of a correctional facility may arrange for regular visits by a qualified representative of a religion to the correctional facility, if the number of convicted persons of the same religious faith justifies it.
4. The director of the correctional facility may temporarily exclude convicted persons from a religious ceremony, if such exclusion is necessary to maintain order and safety and the qualified representative of the religion will be notified of this.
5. Religious ceremonies shall be held in special suitable premises of a correctional institution.

Article 90 Compassionate leave

1. In case of the serious illness, imminent danger of death or the death of a family member, a convicted person may be granted leave by the director of the correctional facility, in accordance with the secondary legislation on domestic order.
2. Leave may also be granted exceptionally for particularly serious personal or family events.
3. The director of the correctional facility may impose any conditions that he or she considers reasonable and necessary in order to protect society when granting leave pursuant to the present article, including ordering the convicted person to be escorted while on leave by a correctional staff member or other person authorized by the director.

Article 91 Complaints and petitions

1. A convicted person shall be provided with information about prisoners' rights and obligations and about the proceedings for submitting complaints and petitions.
2. A convicted person shall be entitled to make a complaint against the procedure and the decision of employees in the correctional institutions. Complaint may be verbal or in writing through the director of the correctional institution, Central Correctional Service Office. Written complaint to the Central Office shall be sent in an envelope, which the directorate of the correctional institution is not allowed to open.
3. A convicted person shall be entitled to a verbal complaint in the absence of the employee of the correctional institution or in the absence of the person against whose procedures and decisions the complaint is being made.
4. The director of the correctional facility will respond in the appeal filed in a time period of fifteen (15) days, whereas the Head Office of the Correctional Service in a time period of thirty (30) days. In a written appeal a response in the written form will be issued.
5. A convicted person has the right to submit a complaint to the director of the correctional facility regarding a violation of his or her rights or other irregularities

- committed against him or her in the correctional facility.
6. The director of the correctional facility or a person authorized by him or her is obliged to response in written.
 7. The director of the correctional facility or a person authorized by him or her is obliged to:
 - 7.1. record all complaints and any measures taken to address them;
 - 7.2. deal with complaints promptly and serve on the convicted person the Ruling on the complaint;
 - 7.3. if the complaint concerns an alleged assault, ensure that the convicted person undergoes an immediate medical examination and receives prescribed treatment; and
 - 7.4. report any criminal offence to the competent State in accordance with the provisions relevant to the criminal leader of the Criminal Procedure Code.
 8. If the convicted person does not receive a reply to the complaint or is not satisfied by the response taken, he has the right to submit a written petition to the General Director of the Correctional Service which shall review the complaint and serve the response on the convicted person.
 9. The convicted person who is not satisfied with the response taken by the General Director of the Correctional Service has the right to make a complaint to the Minister.
 10. The content of a complaint and a petition is confidential.

Article 92

Privileges of a sentenced person

1. The director of a correctional facility after the motion of the team for planning on holding sentence may allocate to a convicted person who is behaving well and is working hard the following privileges:
 - 1.1. an extended right to receive visits, including visits from a wider circle of persons;
 - 1.2. receiving visits in the correctional institution within sight, but not within the hearing range of supervisors.
 - 1.3. the extended right of spending certain time with the his/her spouse in a specific location;
 - 1.4. receiving visits outside the correctional institution;
 - 1.5. leave outside correctional facility;
 - 1.6. visits to the family and relations during weekends and holidays;
 - 1.7. leave from the correctional facility for up to seven (7) days each year;
 - 1.8. extraordinary leave of seven (7) days; and
 - 1.9. the right to spend annual leave outside the correctional facility.
2. The conditions and manner of use of the privileges from Articles 90, 91, 92 of the present law are determined by the secondary legislation on domestic order.

Article 93
Transfer of convicted persons

1. A convicted person may be transferred from one correctional facility to another or from one unit of the correctional facility to another if this is necessary:
 - 1.1. to implement his or her rehabilitation program or work program;
 - 1.2. to encourage contacts between the convicted person and his or her family and community with a view towards facilitating his or her final social reintegration;
 - 1.3. for reasons of safety and security of the convicted person; or
 - 1.4. in the interests of preserving order and discipline within the correctional facility.
 - 1.5. for the reason of medical treatment.
2. A decision on transfer of a convicted person shall be rendered by the General Director of the Correctional Service on the motion of the director of the correctional facility or on the request of the convicted person or an immediate family member.
3. In case of a transfer which the convicted person has not requested, the director of the correctional facility shall ensure that the convicted person is notified of the reasons for the transfer within twenty four (24) hours of the decision being rendered.
4. The spouse of the convicted person, a family member or any other person designated by the convicted person should be notified of the transfer within twenty four (24) hours of the decision being rendered.
5. The prisoner may not resubmit a request for transfer until six (6) months have elapsed from his or her last request for a transfer.

Article 94
Suspension of execution of sentence by a decision of the Minister

1. Upon the request of a convicted person or a member of his or her immediate family or on the motion of the General Director of the Correctional Service and with a recommendation of the General Director of the Correctional Service, the Minister may on reasonable grounds permit a suspension of the execution of a sentence of imprisonment, which may not last longer than three (3) months. Exceptionally, for the purpose of medical treatment the suspension may last until the completion of the treatment.
2. Convicted person is obliged that through medical report signed each month from particular commission of three (3) doctors to inform the Correctional Service regarding his health condition.
3. The decision regarding suspension shall be issued by the Minister based on proposal of the commission compiled by three (3) doctors appointed by the Minister.
4. In such a case prior to execution of a sentence in accordance with the present article the duration of suspension is not to be counted in the length of the sentence.

Article 95

Suspension of execution of a sentence due to extraordinary legal remedies

The competent court which decides on a request for reopening criminal proceedings submitted in favor of the convicted person may suspend the execution of the sentence even before the ruling which allows the reopening of criminal proceedings enters into force.

Article 96

Suspension of execution of sentence due to the request of the competent state prosecutor

1. The suspension of the execution of a sentence is always allowed on the request of the competent state prosecutor until a decision is rendered on the exercising of a legal remedy.
2. The decision on the suspension of the execution of a sentence ceases to have effect if the public prosecutor does not use the legal remedy within thirty (30) days from the date of receipt of the decision on suspension.

Article 97

Revocation of suspension of execution of sentences

1. The Minister of Justice shall revoke the suspension of the execution of a sentence if it later establishes that reasons supporting the suspension did not exist or ceased to exist or that the convicted person used the suspension contrary to the approved purpose.
2. If a convicted person does not report to the correctional facility, after the suspension of the execution of the sentence lapses or is revoked, the correctional facility shall immediately inform the police who shall bring the convicted person for further service of sentence.

Article 98

Effects of suspension of execution of sentences

1. The period of suspension of the execution of a sentence shall not be counted as part of the sentence to be served.
2. During the suspension of the execution of a sentence, the convicted person does not have the rights provided by the present Law.
3. In all other matters the provisions of the present Law regulating a stay of execution of a sentence shall be applied mutatis mutandis to the suspension of the execution of a sentence.

Article 99

Death of convicted persons

1. In the case of the death of a convicted person, the Correctional Service shall immediately notify his or her spouse, children and adopted children and, if there

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- are no such persons, his or her parents, adoptive parent, brother or sister or more distant relatives.
2. The sentencing court, the Minister and the Central Civil Registry shall be notified of the death of the convicted person.

Article 100

Delivery of the remains and personal belongings to the family

1. The physical remains of the convicted person and his or her personal belongings shall be delivered to his or her family.
2. If the convicted person has no family or if his or her family does not accept his or her physical remains, the physical remains of the convicted person shall be buried at the expense of the correctional facility.

Article 101

The disciplinary violations and punishments

1. The purpose of the disciplinary procedures established is to encourage convicted persons to conduct themselves in a manner that promotes the good order of the correctional facility, through a process that contributes to the rehabilitation of the convicted person and his or her successful reintegration into the community.
2. Disciplinary punishments shall only be imposed on convicted persons in accordance with the following provisions of the present Law.
3. A convicted person commits a minor disciplinary violation if he or she:
 - 3.1. disobeys a reasonable order of a staff member;
 - 3.2. is in an area prohibited to convicted persons without authorization;
 - 3.3. is disrespectful or abusive towards a staff member;
 - 3.4. is disrespectful or abusive towards any person in a manner that is likely to provoke that person to be violent;
 - 3.5. refuses to work or leaves work or does not attend work without a reasonable excuse;
 - 3.6. engages in gambling;
 - 3.7. willfully disobeys a written rule governing the conduct of convicted persons; or
 - 3.8. attempts to do, or assists another person to do any action set forth in subparagraphs 3.1 to 3.7 of this paragraph.
4. A convicted person commits a serious disciplinary violation, if he or she:
 - 4.1. fights with, assaults or threatens to assault another person;
 - 4.2. willfully or recklessly damages or destroys property that is not his or her own;
 - 4.3. commits theft;
 - 4.4. is in possession of stolen property;
 - 4.5. offers, gives or accepts a bribe or reward;
 - 4.6. is in possession of or deals in an unauthorized item;
 - 4.7. consumes without authorization a dangerous narcotic drug, a psychotropic substance or alcohol;

- 4.8. creates or participates in a disturbance or any other activity that is likely to jeopardize the safety and security of the correctional facility;
- 4.9. performs any preparatory action for the purpose of escaping; or
- 4.10. leaves the correctional facility or fails to return to the correctional facility without authorization.

Article 102
Disciplinary punishments

1. Disciplinary violations are punished by disciplinary punishments.
2. Disciplinary punishments are the following:
 - 2.1. reprimand;
 - 2.2. deprivation of an assigned privilege;
 - 2.3. an order to make restitution; and
 - 2.4. solitary confinement.

Article 103
Imposing of disciplinary punishments

1. A disciplinary punishment shall be proportionate to the disciplinary violation committed by the convicted person. A convicted person shall not be punished twice for the same act.
2. A reprimand may be imposed when a convicted person has committed a minor disciplinary violation.
3. A deprivation of an assigned privilege or an order to make restitution may be imposed when a convicted person has committed a minor or a serious disciplinary violation.
4. Solitary confinement for a period not exceeding fifteen (15) days may be imposed only for a serious disciplinary violation if the other disciplinary punishments would not be sufficient to achieve the purpose of a disciplinary punishment. In such case, solitary confinement shall be imposed for the shortest period necessary to achieve the purpose of a disciplinary punishment.

Article 104
Imposing of unified disciplinary punishment

1. If a convicted person, by one or more acts, has committed several disciplinary violations for which unified disciplinary procedures are conducted (concurrent disciplinary violations), the disciplinary punishment for each disciplinary violation shall be determined first and then an aggregate disciplinary punishment shall be imposed for all disciplinary violations.
2. In case of the imposition of a single disciplinary punishment for concurrent disciplinary violations, solitary confinement shall not exceed thirty (30) days.
3. The total period of solitary confinement of a convicted person may not exceed two (2) months during a single calendar year.

Article 105
Conditional stay of execution of disciplinary punishments

If the purpose of a disciplinary punishment other than a reprimand may be achieved even without the execution of the disciplinary punishment, the execution of the disciplinary punishment may be conditionally postponed for six (6) months.

Article 106
Reasons for postponement of the execution of disciplinary measures

1. The conditional postponement of the execution of a disciplinary punishment shall be revoked if during the period of postponement of execution a new disciplinary punishment other than a reprimand is imposed on the convicted person.
2. When a conditional postponement of the execution of a disciplinary punishment is revoked, an aggregate punishment shall be imposed for both the prior and the new disciplinary violation. The earlier disciplinary punishment shall be treated as determined and the aggregate disciplinary punishment shall be imposed by the application of the rules for calculating disciplinary punishments for concurrent disciplinary offences.
3. When a conditional postponement of execution of the disciplinary punishment of solitary confinement is revoked, the solitary confinement imposed shall not exceed twenty (20) days if deprivation of assigned privileges is imposed for the later violation, but if solitary confinement is imposed for the later offence, the solitary confinement for a maximum of thirty (30) days may be imposed.

Article 107
Disciplinary procedure

1. In cases of serious disciplinary violations, the director of the correctional institution conducts disciplinary procedures and renders decisions on them. In cases of minor disciplinary violations, a senior supervisor at the correctional institution conducts disciplinary procedures and renders decisions on them.
2. Disciplinary procedures shall be conducted at a hearing at which the convicted person shall be heard and his or her statements shall be verified. A convicted person who does not have an adequate understanding of the language used in the disciplinary procedures is entitled to the assistance of an interpreter. He or she shall be given a reasonable opportunity to summon witnesses, question witnesses, introduce evidence, examine exhibits and documents and make submissions, including submissions respecting the disciplinary punishment.
3. Before a disciplinary punishment is imposed, the behavior and work performance of the convicted person shall be assessed.
4. The disciplinary punishment of solitary confinement cannot be executed before a written medical opinion is obtained which states that the convicted person is in a physical and psychological condition and capable to endure a period of time of solitary confinement in the room in which solitary confinement is executed.
5. A reasoned decision on a disciplinary punishment shall be set out in writing and delivered to the convicted person.

Article 108

Appeal against the solitary imposing

1. A convicted person has the right to appeal against a decision imposing the disciplinary punishment of solitary confinement within three (3) days of receiving the decision.
2. The appeal does not stay the execution of the decision.

Article 109

Decision regarding the appeal

1. The director of the correctional facility or the senior supervisor may modify or rescind a decision on a disciplinary punishment within seventy-two (72) hours of receiving an appeal.
2. If, within seventy-two (72) hours of receiving the appeal, the director of the correctional facility or the senior supervisor does not modify or rescind the ruling or modifies it in a manner not proposed in the appeal, he or she shall deliver the appeal, within a further period of twenty four (24) hours, to the General Director of the Correctional Service.
3. The General Director of the Correctional Service shall decide on the appeal within three (3) days of receiving it.

Article 110

Termination of the execution of disciplinary punishments

1. When the purpose of the disciplinary punishment has been achieved, the director of the correctional facility may terminate the execution of a disciplinary punishment before the expiry of the period for which it has been imposed.
2. The director of the correctional facility shall terminate the execution of a disciplinary punishment of solitary confinement, if according to a written opinion of a medical officer further solitary confinement will threaten the health of a convicted person.

Article 111

Execution of the disciplinary punishment of solitary confinement

1. The disciplinary punishment of solitary confinement consists of the continuous and isolated confinement of a convicted person in a special room.
2. The room for the execution of solitary confinement shall consist of at least ten (10) cubic meters of space, a sanitary device, daily light, potable water, a bed with bed sheets, a table, a chair and heating.

Article 112

The rights of the convicted person in confinement

1. During the execution of the disciplinary punishment of solitary confinement, a convicted person shall have the same hygienic and health conditions as other

convicted persons in the correctional facility and shall be permitted to be outside the closed premises for at least one (1) hour each day for fresh air and exercise. The convicted person shall also have the right to one visit from a spouse or other family member in a fifteen (15) days period.

2. During the period of solitary confinement, a convicted person shall have access to textbooks, books and the daily press.
3. A convicted person who is subject to solitary confinement shall be visited by a medical officer every day and by the director of the correctional facility and an educator once every seven (7) days.

Article 113

Secondary legislation on disciplinary procedure and punishments

The Minister shall issue a secondary legislation on regulating closely the disciplinary procedure and punishments.

Article 114

Material responsibility of convicted persons

1. A convicted person is obliged to compensate for damage caused deliberately or by conscious gross negligence to the correctional facility.
2. The director of the correctional facility shall decide on the damage, the cost of the damage and the period within which the compensation shall be paid.
3. A convicted person may appeal to the General Director of the Correctional Service against a decision on compensation for damage within eight (8) days of receipt of the decision.

Article 115

Compensation for the damage

1. If, after the decision of the General Director of the Correctional Service, the convicted person does not pay for damage of an amount less than a hundred (100) EUR, the correctional facility shall be compensated from the account of the convicted person.
2. A convicted person may, through civil litigation, request the return of the money taken from him or her to cover the damage.
3. A convicted person serving a sentence shall be entitled to judicial protection in case the final decision restricts or violates any of the rights provided for by the present Law.

Article 116

Conditions for use of force against convicted persons

1. Force may be used against a convicted person only if it is strictly necessary to prevent:
 - 1.1. escape;

- 1.2. physical attack on another person;
 - 1.3. self-inflicted injury;
 - 1.4. causing material damage; or
 - 1.5. active or passive resistance during the execution of legal orders by a correctional official.
2. The force that is used must be the minimum and proportionate to the attack.
 3. The force may be used only when it is authorized by the director of the correctional facility, unless a correctional officer reasonably believes that the director would authorize the use of force and that delay in obtaining that authorization would result in the objective not being attained.
 4. If force is used without authorization, pursuant to paragraph 3. of the present Article, the correctional officer shall report the action taken to the director of the correctional facility as soon as possible.
 5. Where force is used, the convicted person concerned shall undergo an immediate medical examination and receive the prescribed treatment.
 6. After using any kind of force, the report shall be submitted without any delay explaining the reason for the use of such force.

Article 117 **Restraint equipment**

1. Restraint equipment may only be issued to a correctional officer upon the approval of the director of a correctional facility if the correctional officer is trained in the use of such equipment.
2. Restraint equipment includes any device used to temporarily restrict or limit the free movement of a convicted person. The use of chains and irons shall be prohibited.
3. Restraint equipment shall not be applied as punishment and may only be used:
 - 3.1. to effect a transfer or escort;
 - 3.2. on medical grounds under the direction and supervision of a medical officer;
 - 3.3. if a convicted person fails to lay down a weapon or some other dangerous item after of being ordered to do so;
 - 3.4. by the order of the director of the correctional facility, as a last resort, to protect a convicted person, to prevent injury to others or to prevent serious damage to property; or
 - 3.5. to prevent an escape.
4. The use of restraint equipment shall be reported in writing.

Article 118 **Use of firearms**

1. With approval of the Ministry of Justice, the Ministry of internal Affairs may allow the firearm only for the correctional officer who is trained in its use.
2. A firearm may only be used as a last mean during the accomplishment of duty. A firearm may only be used where the security of the correctional facility or the safety of persons is threatened by one or more convicted persons.

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3. The use of firearm shall be in proportion with the scale of risk.
4. Before the usage of the firearm, the correctional officer or other correctional official who carries an arm shall order the person to halt by warning him verbally that he shall fire his arm if that person does not halt.
5. Notwithstanding paragraph 4. of this Article, the order and the warning may not happen if that shall endanger the life of the correctional officer or other persons.
6. Correctional officer and other staff who are in a contact with the prisoners shall not keep their arms charged within the perimeter of the prison, unless it is required differently for the security of the correctional institutions and persons.
7. The Correctional Service shall provide an appropriate place for safe storage of the firearms and the ammunition.
8. The General Director of the Correctional Service shall be reported on the usage of the firearm in a written form.

Article 119

Duty to inform about the application of force

The director of a correctional facility shall immediately inform the General Director of the Correctional Service about the application of force against a convicted person.

Article 120

The Minister shall issue a secondary legislation on the use of force, the issuance and use of restraint equipment and the issuance, use and storage of firearms.

Article 121

Conditional Release

1. A convicted person is eligible for conditional release in accordance with the Criminal Code of Kosovo.
2. A convicted person has the right to submit a request for conditional release through the correctional facility in which he or she is serving his or her sentence to the panel for conditional release established pursuant to the Criminal Code of Kosovo.
3. The director of the correctional facility may submit a motion for conditional release.
4. After submission of appeal for conditional release, the Director of correctional facility shall request from Probation Service to conduct the visit of convinced person and to sign agreement on its supervision after conditional release.
5. Upon the submission of a request or a motion for conditional release, the director of the correctional facility shall immediately submit to the conditional release panel a copy of the personal file of the convicted person and a report on the convicted person by a professional team in the correctional facility through annexed letter signed by General Director of correctional institution.
6. If the conditional release panel doesn't have enough information, may request from correctional facility additional information.
7. The report under paragraph 5. of the present Article shall set forth:

- 7.1. the nature of the criminal offence committed by the convicted person;
- 7.2. the attitude of the convicted person to the criminal offence and the victim and the victim's family;
- 7.3. any previous criminal offences committed by him or her;
- 7.4. his or her family circumstances and social background;
- 7.5. his or her physical or psychological state, including evaluation of hazardous state whenever is necessary from a Psychiatrist or Psychologist;
- 7.6. his or her behavior in the correctional facility and the progress achieved in removing the factors that caused the criminal offence;
- 7.7. his or her post-release plans;
- 7.8. the support that would be available to him or her on release; and
- 7.9. any circumstances indicating that he or she will not commit a new criminal offence.

Article 122

Conditional Release panel

1. For a conditional release shall decide the parole.
2. The parole panel is comprised of three (3) members: one (1) judge from Supreme Court delegated by the President of the Supreme Court; one (1) state prosecutor delegated by the Chief State Prosecutor; one (1) representative from MIA/Kosovo Police, with knowledge on relevant professional fields (legal, pedagogy, sociology, psychology) delegated by the General Director of the Kosovo Police. Kosovo Judicial Council appoints also one (1) representative delegated by Rectorate/Faculty of Law, as a fourth member with knowledge and experience from respective professional field, which is elected in readiness to decide on cases where with law is foreseen exclusion of the panel member in certain matter or replacement in absence of another member.
3. The parole panel shall decide on all requests and motions for conditional release.
4. The Kosovo Judicial Council shall issue the rules of procedure for the parole panel.
5. There is no right on appeal against parole panel ruling and also cannot be raised an administrative conflict.

Article 123

Execution of the decision of conditional release panel

1. A ruling on conditional release shall be delivered to the convicted person within three (3) days of its issuance and it shall also be filed with the court which sentenced him or her.
2. A ruling of the parole panel together with the file of convicted person shall be delivered to Probation service during the time period of three (3) days after receiving the decision for conditional release.
3. A ruling granting a parole shall contain, inter alia, the date on which the convicted person shall be released from serving his or her sentence.
4. If parole is not granted, the ruling shall contain, inter alia, the date on which the conditional release panel may reconsider the convicted person's request for

conditional release. The date of reconsideration can't be shorter than three (3) months and not longer than twelve (12) months.

5. If a disciplinary punishment of solitary confinement is imposed on the convicted person between the date of issuance of the ruling on conditional release and the date of conditional release from service of the sentence, the conditional release panel shall reconsider the ruling.

Article 124

Obligations of conditionally released person

1. Within five (5) days of the date of release, a person who is conditionally released is obliged to inform the police or Probation Service of his or her temporary residence during the period of his or her conditional release.
2. A person who is conditionally released is obliged to report to the Probation Service during the period of his or her conditional release.
3. If a person who is conditionally released changes temporary residence, he or she is obliged to inform the police and the Probation Service.
4. If the person who is on parole fails to perform any one of the obligations set forth in paragraphs 1.,2.,3. of this Article, the Panel on conditional release by the proposal of Probation Service may revoke the decision of conditional release.
5. If the parole, which is set forth in paragraph 4. of this Article, is being revoked, the punished person shall serve the remaining part of the punishment.
6. If the released person does not voluntarily turn in to serve the punishment within twenty four (24) hours after the submission of the ruling in a written form for the revocation of the ruling for parole, then the Kosovo police shall by force take him to the Correctional Institute to serve the remaining part of the punishment.
7. Probation Service drafts written reports on the Parole Panel regarding the observance of the persons on parole.
8. The duration criteria and period for the drafting of the reports and the supervision of the persons on parole is regulated with a special secondary act issued by the Minister.

Article 125

Effect of conditional release on rights provided by the present Law

During the period of conditional release a convicted person does not have the rights provided by the present Law.

Article 126

Release due to completion of sentence

1. A convicted person shall be released from the correctional facility on the day when his sentence of imprisonment is completed.
2. If the last day of the sentence falls on a Saturday, a Sunday or an official holiday, the convicted person shall be released the last working day before that day.
3. Release foreseen according to paragraph 2. of the present Article shall not be executed for the minor offence envisaged for least than seven (7) days imprisonment.

4. A convicted person shall be released from any work or tasks at least three (3) days before the day of release.

Article 127
Early release

1. The director of a correctional facility may release a convicted person before the completion of his or her service of the sentence of imprisonment if he or she has demonstrated good behavior, success in his or her work and other activities.
2. The director of a correctional facility may grant early release under paragraph 1. of the present Article, if the sentenced person has served at least three-quarters (3/4) of the sentence of imprisonment and if not more than three (3) months of his or her sentence remains.
3. If a disciplinary punishment of solitary confinement is imposed on the convicted person between the date of issuance of the ruling on early release and the date of early release from service of the sentence, the director of a correctional facility shall reconsider the ruling.
4. The ruling on early release under the present article shall be delivered to the convicted person within three (3) days of its issuance and filed with the sentencing court.

Article 128
Release from service of sentence on grounds of pardon

The convicted person who is pardoned shall be released on the same day as the correctional facility receives the decision on pardon and no later than twenty-four (24) hours from the receipt of the decision

Article 129
Other provisions on release of a convicted person from the service of a sentence

1. Before the release, a convicted person shall be examined by a medical officer no more than three (3) working days prior to the date of release and a medical report shall be placed in the health file of the convicted person.
2. Where medical treatment is necessary after release, the medical officer, in consultation with the director of the correctional facility, shall arrange for such treatment prior to release. The convicted person shall be given a three (3) days supply of requisite medication upon release.
3. A convicted person who is seriously ill or is not able to travel due to illness shall be sent by the correctional facility to the nearest health care institution.

Article 130
Issuing release paper

1. Upon release from a correctional facility, a convicted person shall be issued a release paper which shall contain, inter alia, identifying data on the convicted person, the date of admission to the correctional facility, the date of release and,

where appropriate, the date when the convicted person must report to a police station. A convicted person who has been conditionally released shall be issued a release paper indicating his or her obligation not to commit any new criminal offence and specifying the period of conditional release granted to him or her.

2. The release paper serves as evidence of the identity of the convicted person until he arrives at a place of permanent or temporary residence.

Article 131

Personal items

1. Upon release, a convicted person shall be given all personal effects and items, which were kept for him or her by the correctional facility, his or her savings and any money he or she received during the period of the sentence.
2. The correctional facility shall provide underwear, clothes and shoes to a convicted person who does not have such items or financial resources to obtain them.

Article 132

Transport expenses

1. The costs of transportation to the place of permanent or temporary residence shall be paid for a convicted person.
2. The costs of transportation to a border crossing-point shall be paid for a convicted foreigner, if special provisions do not provide otherwise.
3. Transportation expenses shall be covered by the correctional facility from which a convicted person is released.

Article 133

Notification prior to conditional release

1. Prior to release, the correctional facility shall inform the sentencing court and the police station closest to the place of permanent or temporary residence of the convicted person about the release of the convicted person.
2. In case of a convicted person who is a minor, the correctional facility shall inform his or her family, Probation Service and the competent Centre for Social Work, about the release of the convicted person.
3. The preparation for the release of a person with a mental disorder shall be undertaken in consultation with the director of the correctional facility, the psychiatrist treating the convicted person in the correctional facility and the appropriate mental health authorities in the community.

Article 134

Assistance after release from sentence

1. If the convicted person needs assistance after release, the correctional facility shall inform the Centre for Social Work that is competent according to the permanent or temporary residence of the convicted person about this at least three (3) months before the release.

2. The correctional facility shall inform the Centre for Social Work of the nature of the assistance that the convicted person requires.

CHAPTER III EXECUTION OF FINES

Article 135

Jurisdiction and procedure for execution of fines

1. The sentencing court orders the execution of the fine.
2. Provisions of the applicable Law on Executive Procedure shall be applied to the jurisdiction and procedure for the execution of a fine, unless provided otherwise by this Law.

Article 136

Effect of replacing fines with imprisonment

A convicted person whose fine is replaced by a term of imprisonment in accordance with the Criminal Code of Kosovo is treated as a person who serves a sentence of imprisonment for a minor offence.

Article 137

Relationship between execution of fines, costs of criminal proceedings and property claims of injured parties

1. When the costs of criminal proceedings and the fine are to be executed at the same time, the costs of criminal proceedings shall be executed first.
2. If the property of the convicted person has, due to the payment of a fine, decreased to such an extent that the property claim of the injured party cannot be realized, the property claim shall be realized from the paid fine but only to the extent of the value of the fine.

Article 138

Expenses of execution of a fine

1. A convicted person shall pay the expenses of the forcible execution of a fine.
2. A paid fine shall be credited to the Kosovo Consolidated Budget.

**PART THREE
EXECUTION OF ALTERNATIVE PUNISHMENTS**

**CHAPTER IV
GENERAL PROVISIONS ON THE EXECUTION
OF ALTERNATIVE PUNISHMENTS**

Article 139

Beginning of execution of suspended alternative sentence

1. The execution of an alternative punishment begins after the judgment is final.
2. The permanent residence or the temporary place of residence of the convicted person is the place where an alternative punishment shall be executed.
3. The Probation Service shall prepare, manage and observe the execution of the alternative punishments.

Article 140

The manner of the execution of alternative punishments

1. An alternative punishment shall be executed in a manner that is consistent with the dignity and basic rights and freedoms of the convicted person and his or her family.
2. A convicted person whose dignity or basic rights and freedoms were violated during the execution of an alternative punishment shall be entitled to appeal.
3. A convicted person serving an alternative sentence shall be entitled to judicial protection in case the final decision restricts or violates any of the rights provided for by the present Law.

Article 141

Pre-sentence report of alternative punishment

1. Prior to the imposition of an alternative punishment the court may request a pre-sentence report from the Probation Service. The Probation Service shall submit the pre-sentence report to the court within three (3) weeks of such request.
2. The pre-sentence report shall identify which alternative punishment or punishments would be appropriate for the convicted person in view of the objectives of rehabilitation and prevention of the commission of criminal offences in the future.

Article 142

Report on alternative punishment revocation

1. When a court receives a Probation Service report which contains information about a violation of the conditions of an alternative punishment or a failure to perform an obligation, the court shall consider the revocation of the alternative punishment and inform the convicted person of the content of the report and shall give him or her the right to respond to the report. The convicted person shall be advised of his or her right to the assistance of defense counsel at his or her own expense.

2. During the period that the revocation of an alternative punishment is under consideration, the execution of the alternative punishment shall be suspended.
3. After reviewing the report of the Probation Service and any response received from the convicted person or his or her defense counsel, the court shall determine whether to revoke the alternative punishment or to take other action in accordance with the Criminal Code of Kosovo
4. The court shall issue a reasoned decision in writing within thirty (30) days of receiving the report from the Probation Service. The decision shall be sent to the convicted person, defense counsel, Probation Service and the state prosecutor.
5. The decision may be appealed by the convicted person within eight (8) days of receiving the decision

CHAPTER V EXECUTION OF A SUSPENDED SENTENCE

Article 143

The manner of execution of suspended sentence

1. When the court imposes a suspended sentence, it shall immediately send the judgment and all information in its possession to the competent Probation Service to execute this alternative punishment.
2. If a convicted person is held in detention on remand, the court shall also send the decision to the detention facility where he or she is held. The director of the detention facility shall release the convicted person in order to execute this alternative punishment.

Article 144

Supervision of obligations performance

1. When the court imposes a suspended sentence and orders the performance of an obligation as per the provisions of the Criminal Code of Kosovo, the Probation Service shall supervise the performance of the obligation.
2. If a convicted person fails to perform an obligation ordered by the court, according to paragraph 1. of the present Article, the Probation Service shall inform the court after verifying facts and the reasons for the failure to perform the obligation.

CHAPTER VI EXECUTION OF SUSPENDED SENTENCE WITH ORDER FOR MANDATORY REHABILITATION TREATMENT

Article 145

The manner of execution of a suspended sentence with the order for mandatory rehabilitation treatment

1. A suspended sentence with an order for mandatory rehabilitation treatment shall be executed in a health care institution or another appropriate institution.

2. When the court imposes a suspended sentence with an order for mandatory rehabilitation treatment, it shall immediately send the judgment and all information in its possession to the competent Probation Service and the competent health care institution or appropriate institution to execute this punishment.
3. If a convicted person is held in detention on remand, the court shall also send the decision to the detention facility where he or she is held. The director of the detention facility shall release the convicted person in order to execute this alternative punishment.

Article 146
Rehabilitation treatment program

1. The competent health care institution or appropriate institution, in cooperation with the Probation Service, shall determine the rehabilitation treatment program for a person subject to a suspended sentence with an order for mandatory rehabilitation treatment. The Probation Service shall supervise such person's compliance with the rehabilitation treatment program, in cooperation with the competent health care institution or appropriate institution.
2. Every four (4) months, the Probation Service shall send reports to the court on the progress of the rehabilitation treatment program based on information provided by the competent health care institution or other appropriate institution.
3. The competent health care institution or other appropriate institution shall immediately inform the Probation Service if the convicted person fails to comply with the rehabilitation treatment program. Failure by the convicted person to comply with the rehabilitation treatment program shall be assessed by the Probation Service and reported to the court.
4. Upon the notification from the competent health institution on successful completion of the rehabilitation treatment program, such a report shall be sent to the court the Probation Service.

CHAPTER VII
EXECUTION OF SUSPENDED SENTENCE WITH ORDER
FOR SUPERVISION BY THE PROBATION SERVICE

Article 147

The manner of execution of a suspended sentence with an order for supervision by the Probation Service

1. When the court imposes a suspended sentence with an order for supervision by the Probation Service in accordance with the Criminal Code of Kosovo, it shall immediately send the judgment and all information in its possession to the competent Probation Service to execute this alternative punishment.
2. If a convicted person is held in detention on remand, the court shall also send the ruling to the appropriate correctional institution where he or she is held. The director of the appropriate correctional institution shall release the convicted person in order to execute this alternative punishment.

Article 148

Supervision by the Probation Service

1. The Probation Service shall supervise the execution of a suspended sentence with an order for supervision by the Probation Service.
2. If a convicted person fails to maintain contact with the Probation Service, the Probation Service shall inform the court after verifying facts and the reasons for the failure to maintain contact.

Article 149

Supervision of the performance of obligations

1. When the court imposes a suspended sentence with an order for supervision by the Probation Service and orders the performance of an obligation in accordance with the Criminal Code of Kosovo, the Probation Service shall supervise the performance of the obligation.
2. If a convicted person fails to perform an obligation ordered by the court, the Probation Service shall inform the court after verifying facts and the reasons for the failure to perform the obligation.

Article 150

Reporting of Probation Service

The successful completion of the verification period of the sentenced persons' alternative punishment execution shall be reported by the Probation Service to the court. Upon the receipt of such report, the court shall issue a decision stating that the alternative punishment has been served.

CHAPTER VIII

EXECUTION OF SENTENCE WITH ORDER FOR COMMUNITY SERVICE WORK

Article 151

The manner of execution of sentence with an order for community service

1. When the court imposes a suspended sentence with an order for community service work in accordance with the Criminal Code of Kosovo, it shall immediately send the judgment and all information in its possession to the competent Probation Service to execute this alternative punishment.
2. If a convicted person is held in detention on remand, the court shall also send the decision to the detention facility where he or she is held. The director of the appropriate correctional institute shall release the convicted person in order to execute this alternative punishment.

Article 152
Community Service work program

1. Probation Service shall develop a program for community service work for a convicted person, in accordance with the Criminal Code of Kosovo and with his or her abilities, skills and background.
2. Probation Service shall supervise the execution of a suspended sentence with an order for community service work.
3. Probation Service, in coordination with the organization where the community service work is to be performed, shall develop rules for insurance for workplace injury or illness, general behavior in the workplace and other relevant matters prior to the commencement of community service work. The general rules relating to working hours, breaks, weekly rests and workplace safety shall apply to the performance of community service work.

Article 153
Community Service performance supervision

1. When the court imposes a sentence with an order for community service work and orders the convicted person to maintain contact with the Probation Service or to perform one or more of the obligations provided for in accordance with the Provisional Criminal Code, the Probation Service shall supervise the maintenance of contact or the performance of the obligation.
2. If a convicted person fails to maintain contact with the Probation Service or to perform an obligation ordered by the court, the Probation Service shall inform the court after verifying facts and the reasons for the failure to maintain contact or to perform the obligation.
3. Central and local level administration bodies, institutions and other legal persons as well as natural persons are obliged to cooperate with the Probation Service and the Regional Probation Offices in the execution of sentences ordering community service work.
4. The Minister shall conclude cooperation agreements with regard to the execution of sentences ordering community service work from paragraph 3. of the present Article. The cooperation agreements shall set out mutual rights and obligations.

Article 154
Notification

1. The organization where the community service work is to be performed shall immediately inform the Probation Service if the convicted person fails to perform the community service work satisfactorily. Failure to perform the community service work satisfactorily shall be assessed by the Probation Service and reported to the court.
2. Failure to perform the community service work satisfactorily includes late arrival to work; unauthorized absence from work; failure to comply with work rules.

Article 155

Correction of the community service work program

1. If a convicted person is unable to perform the community service work due to changed circumstances, the Probation Service may revise the program for community service work.
2. The execution of an order for community service work ordered with a sentence may be stayed or suspended due to:
 - 2.1. the sudden illness of the convicted person, which requires him or her to obtain medical treatment and prevents him or her from performing community service work;
 - 2.2. the death of a family member, which requires him or her to act as the primary caregiver to other family members and prevents him or her from performing community service work; or
 - 2.3. any other extraordinary circumstances which require the constant presence of the convicted person for humanitarian reasons and prevent him or her from performing community service work.
3. A request to postpone or suspend the execution of an order for community service work ordered with a suspended sentence may be submitted to the court by the convicted person, defense counsel or a representative from the Probation Service. The submission of the request suspends the obligation to perform community service work until the court decides on the request.
4. The court shall decide on the postponement or suspension of the execution of an order for community service work ordered with a sentence within three (3) days of receiving the request. If the court approves a postponement or suspension of the execution of the order for community service work, the act shall specify the period of the postponement or suspension.
5. The postponement or suspension of the execution of an order for community service work ordered with a suspended sentence may last:
 - 5.1. until the end of the illness, in cases under subparagraph 2.1. paragraph 2. of the present Article; and
 - 5.2. for up to twenty (20) days, in cases under subparagraphs 2.2. and 2.3. of paragraph 2. of the present Article.

Article 156

Reporting

The successful completion of the community service work shall be reported by the Probation Service to the court. Upon the receipt of such report, the court shall issue a decision stating that the alternative punishment has been served.

**CHAPTER IX
EXECUTION OF IMPRISONMENT IN SEMI-LIBERTY**

**Article 157
The manner of execution of imprisonment in semi-liberty**

1. When the court imposes a punishment of imprisonment and orders the execution of the punishment in semi-liberty, it shall immediately send the judgment and all information in its possession to the competent Probation Service and the correctional facility to execute this alternative punishment.
2. The General Director of the Correctional Service shall determine the correctional facility where the order for semi-liberty is to be executed, taking into account the place of work or other obligations and responsibilities of the convicted person and other operational factors.

**Article 158
Supervision of the convicted person in semi-liberty**

1. The director of the correctional facility shall supervise the convicted person while he or she is imprisoned and the competent Probation Service shall supervise the convicted person while he or she is at liberty.
2. If a convicted person fails to return to the correctional facility after performing his or her obligations, the director of the correctional facility shall inform the court after verifying facts and the reasons for the failure to return to the correctional facility.
3. If a convicted person fails to perform his or her obligations related to work, education or vocational training, family responsibilities or medical treatment or rehabilitation, the Probation Service shall inform the court after verifying facts and the reasons for the failure to perform such obligations.

**PART FOUR
EXECUTION OF ACCESSORY PUNISHMENTS**

**CHAPTER X
DEPRIVATION OF THE RIGHT TO BE ELECTED**

**Article 159
The manner of execution of the removal of the right to be elected**

1. When the court decides to deprive a perpetrator of the right to be elected in accordance with the Criminal Code of Kosovo, it shall immediately send the judgment and all information in its possession to the police station in the territory where the convicted person has his or her permanent residence to execute this accessory punishment.
2. The administrative unit of the police station shall inform the Central Election Committee of Kosovo and the Local Election Committee where the convicted

person has his or her permanent residence that the convicted person has been deprived of the right to be elected by a final act of the court.

3. If the convicted person changes his or her permanent residence, he or she shall inform the court and the police about the new permanent residence. The police station in the territory where the convicted person had his or her former permanent residence shall inform the police station where the convicted person has his or her new permanent residence.

CHAPTER XI PROHIBITION ON EXERCISING PUBLIC ADMINISTRATION OR PUBLIC SERVICE FUNCTIONS

Article 160

The manner of execution of the prohibition on exercising the functions in public administration or public service

1. When the court decides to prohibit a perpetrator from exercising public administration or public service functions, in accordance with the Criminal Code of Kosovo, it shall immediately send the judgment and all information in its possession to the Ministry of Public Administration to execute this accessory punishment.
2. If the convicted person fails to comply with the prohibition on exercising public administration or public service functions, the Ministry of Public Administration shall inform the court of the failure to comply with the prohibition.

CHAPTER XII PROHIBITION ON EXERCISING PROFESSION, ACTIVITY OR DUTY

Article 161

Execution of prohibition to perform profession, activity or duty

When the court decides to prohibit a perpetrator from exercising a profession, an independent activity, management duties or administrative duties, in accordance with the Criminal Code of Kosovo, it shall immediately send the judgment and all information in its possession to the public or private enterprise where the convicted person has been employed, to the body authorized to issue a license for practicing a profession or activity and to the Ministry of Labor and Social Welfare to execute this accessory punishment.

Article 162

Revocation of license

1. When a prerequisite for exercising a profession, activity or a duty is a license issued by an authorized body, this accessory punishment shall be executed by revoking the license or by prohibiting the issuance of the license during the time when the accessory punishment is in force.

Criminal laws

2. In other cases, the Ministry of Labor and Social Welfare shall undertake appropriate actions to prevent the convicted person from exercising a profession, activity or duty.
3. The public or private enterprise, the authorized body or the Ministry of Labor and Social Welfare shall inform the court which imposed the accessory punishment when such punishment has been executed.

Article 163

Court Notification

If the convicted person fails to comply with the prohibition on exercising a profession, activity or duty, the public or private enterprise, the authorized body or the Ministry of Labor and Social Welfare shall inform the court of the failure to comply with the prohibition.

CHAPTER XIII

PROHIBITION ON DRIVING MOTOR VEHICLES

Article 164

Execution of vehicle driving prohibition

1. When the court decides to prohibit a perpetrator from driving a motor vehicle in accordance with the Criminal Code of Kosovo, it shall immediately send the judgment and all information in its possession to the competent entity authorized to issue drivers' licenses in the territory where the convicted person has his or her permanent residence to execute this accessory punishment.
2. If the permanent residence of the convicted person cannot be identified, the competent entity authorized to issue drivers' licenses in the territory where the convicted person has his or her temporary residence shall execute the accessory punishment.
3. If the convicted person does not have a permanent residence in Kosovo, the judgment shall be sent to the competent entity authorized to issue drivers' licenses in the territory where the criminal offence was committed.

Article 165

Invalidity of drivers' license

1. The competent entity authorized to issue drivers' licenses shall execute this punishment by summoning the convicted person and writing on his or her driver's license that it is invalid during the execution of this accessory punishment for the specific kind and category of the motor vehicle.
2. If the convicted person does not have a driver's license or has a driver's license issued by a foreign authority, this accessory punishment shall be executed by recording the punishment in the register of competent entity authorized to issue drivers' licenses. The competent public entity shall register the data on the convicted person, the imposed accessory punishment and its duration.

3. When the term of this accessory punishment has been completed, the convicted person may apply for a new driver's license with the competent entity authorized to issue drivers' licenses.

Article 166

If the convicted person fails to comply with the prohibition on driving a motor vehicle, the competent entity authorized to issue drivers' licenses shall inform the court of the failure to comply with the prohibition.

CHAPTER XIV CONFISCATION OF DRIVER'S LICENSE

Article 167

Execution of confiscation of driving license

1. When the court decides to confiscate a driver's license in accordance with the Criminal Code, it shall immediately send the judgment and all information in its possession to the police station in the territory where the convicted person has his or her permanent residence to execute this accessory punishment.
2. If the permanent residence of the convicted person cannot be identified, the police station in the territory where the convicted person has his or her temporary residence shall execute the accessory punishment.

Article 168

1. If the convicted person is in possession of a driver's license, the police shall execute this accessory punishment by summoning the convicted person and confiscating the driver's license for the duration of the punishment.
2. If the convicted person is not in possession of a driver's license, this accessory punishment shall be executed by recording the punishment in the register of the administrative body which is competent for issuing drivers' licenses. The competent body shall register the data on the convicted person, the imposed accessory punishment and its duration.
3. The execution of this accessory punishment commences on the date of the confiscation of the driver's license or of the recording of the punishment in the register of the competent body which is competent for issuing drivers licenses.

CHAPTER XV CONFISCATION OF AN OBJECT

Article 169

Execution of confiscation of objects

1. The accessory punishment of confiscation of objects in accordance with the Criminal Code of Kosovo shall be executed by the court which has imposed the punishment at first instance.

Criminal laws

2. The court shall determine whether to sell the confiscated object, according to law provisions on execution procedure will deliver it to a competent entity, a museum of criminology or other appropriate institution, or to destroy it.
3. Proceeds from the sale of confiscated objects shall be deposited in the Kosovo Budget.

CHAPTER XVI THE ORDER TO PUBLISH THE JUDGMENT

Article 170 Publication of a judgment

When the court orders the publication of a judgment in accordance with the Criminal Code of Kosovo, it shall immediately send the executable judgment for publication in one or more newspapers or broadcasting on a radio or television channel.

CHAPTER XVII THE EXPULSION OF A FOREIGNER FROM THE TERRITORY OF KOSOVO

Article 171

When the court decides to expel a foreigner from the territory of Kosovo in accordance with the Criminal Code of Kosovo, it shall immediately send the judgment and all information in its possession to the police station in the territory where the convicted person has his or her temporary residence to execute this accessory punishment.

CHAPTER XVIII EXECUTION OF MANDATORY TREATMENT MEASURES

Article 172 The manner of execution of mandatory rehabilitation treatment of perpetrators addicted to drugs or alcohol

1. A measure of mandatory rehabilitation treatment of perpetrators addicted to drugs or alcohol shall be executed in a health care institution or another appropriate institution. If the measure is imposed in addition to a punishment of imprisonment, the measure shall be served in health institution.
2. The court shall decide on the health care institution, the correctional facility or other appropriate institution where the measure of mandatory treatment is to be executed.
3. When the court imposes a measure of mandatory rehabilitation treatment, it shall immediately send the decision and all information in its possession to the competent Probation Service and the competent health care institution, the correctional facility or appropriate institution to execute this measure.
4. If a convicted person is held in detention on remand, the court shall also send the

decision to the detention facility where he or she is held. The director of the detention facility shall release the convicted person in order to execute this measure.

Article 173

Rehabilitation treatment program

1. The health institution, the correctional facility or appropriate institution, in cooperation with the Probation Service, shall determine the rehabilitation treatment program for a person subject to a measure of mandatory rehabilitation treatment. The Probation Service shall supervise such person's compliance with the rehabilitation treatment program, in cooperation with the health institution, the correctional facility or appropriate institution.
2. Every two (2) months, the Probation Service shall send a report to the court on the progress of the rehabilitation treatment program based on information provided by the competent health care institution, the correctional facility or other appropriate institution.
3. The health institution, the correctional facility or appropriate institution shall immediately inform the Probation Service if the convicted person fails to comply with the rehabilitation treatment program. Failure by the convicted person to comply with the rehabilitation treatment program shall be assessed by the Probation Service and reported to the court.
4. The successful completion of the rehabilitation treatment program shall be reported by the Probation Service to the court. Upon the receipt of such report, the court shall issue a decision stating that the measure has been served.

Article 174

The manner of execution of the measure of mandatory psychiatric treatment upon detention the health care institution

1. The measure of mandatory psychiatric treatment upon detention is executed in the health institution or in another special institution, that is located in the permanent residence or temporary location of the defendant, or if such a location is not located in that place, in the closest one with the place where the defendant has his permanent residence or the his/her temporary location or in the place where the criminal proceedings took place.
2. The court shall decide about the health institution or the other appropriate institution where the measure of mandatory psychiatric treatment in detention must be executed. Upon deciding on the health care institution, the court shall take into consideration the risk that the defendant presents for his or her environment, for his/her permanent residence or his temporary location also taking into consideration his/her needs for treatment.
3. When the court renders the measure of mandatory psychiatric treatment in detention it shall immediately send the decision and all of the data possessed to the competent Correctional Service and the health institution and the correctional institution for treatment.

4. If the measure is rendered alongside the imprisonment sentence, the carrier of the criminal offence firstly will be sent to the healthcare institution for treatment.

Article 175

Transferring the person to whom is imposed the measure of mandatory psychiatric treatment in detention in the health care institution

1. If the person towards whom the measure of mandatory psychiatric treatment in detention is rendered, is in freedom, the court orders its transfer in the institution of health care or shall order the issuing of warrant order. If the person is in pre trial detention, the personnel of the Kosovo Correctional Service shall escort him or her to the health care institution.
2. The person towards whom this measure is rendered will be transferred to the health care institution escorted by the health care employees.
3. The person towards him this measure is applied has the same rights and obligations as the person that is serving an imprisonment sentence, unless the treatment needs foresee differently.
4. Upon the proposal of the health care institution, where this measure is being executed, during the period of application of the measure the court can decide for the transfer of the person from one healthcare institution to another one.
5. The court that has rendered this measure on the first instance shall monitor the legality of its execution. The component public organ for health care shall monitor the professional capabilities for treatment that is offered during the execution of this measure

Article 176

Reporting of health care institution

1. The health care institution shall send to the court that has rendered this measure on the first instance, a report on the health conditions and the successes of the treatment of the person towards whom the measure is being executed, at least once in six (6) months and even often upon request of the court.
2. When the health care institution or the responsible doctor for mental treatment concludes that it is not necessary to treat or to further detain the carrier of the criminal offence in the health care institution, he shall immediately inform the court that had rendered this measure on the first instance.
3. Every six (6) months, the court that has rendered the measure at its first instance evaluates the need for the continuation of the measure after the deliberation made by the health care institution and the opinion of the independent expert that is not employed at the health care institution where the measure is being executed.
4. As per official duty or by the proposal of the defendant, the representative of the health care institution or the custody organ that is competent based on the temporary place of residence or the permanent place of residence at the time when the order entered into force, by which this measure was ordered, the court that has ordered the measure at the first instance can discontinue it if it concludes that it is not necessary to treat and further detain the defendant at that institution. When the

measure is discontinued, the court can order the measure of mandatory psychiatric treatment in freedom if there are reasons for rendering such a measure.

5. The decision as per paragraph 4. of this Article is taken after the state prosecutor is heard, the defense attorney and of the defendant if his or her condition allows this even after the medical experts' opinion has been elaborated upon.
6. When the court discontinues the measure, it informs the health care institution, and releases the person towards the measure was rendered to, immediately after this decision is taken.

Article 177

Providing help after release from health care

1. After the person is released from the health institution, the competent custody organ is responsible for the person to give him aid after the release from the health care institution.
2. If the carrier of the criminal offence, that was of a diminished mental capacity at the time of the commission of the criminal offence, is now released from the health institution and if he/she has spent less time at the health institution than the time foreseen for imprisonment, the court shall elaborate the possibility of conditioned release for that person.
3. Upon deciding for a conditioned release, the court shall specifically take into consideration the success of the treatment of the convicted person, his health condition, the time spent at the health institution and the time remained for serving the sentence.
4. If the court decides the conditional release, it can also render the measure of mandatory psychiatric treatment in freedom in case there are reasons for such a decision.
5. If the court decides that the convicted person shall serve the remaining part of the sentence with imprisonment, the personnel of the Kosovo Correctional Service shall escort him to the correctional institution for serving the sentence.

Article 178

The execution of the mandatory measure of psychiatric treatment in freedom

1. The measure of mandatory psychiatric treatment in freedom is executed in the health institution determined by the court that had rendered this measure at the first instance.
2. The court shall inform the health institution of the date when the person towards whom the measure of psychiatric treatment in freedom is rendered shall appear for treatment.
3. The person towards whom the measure is appointed is obliged to appear in front of the health institution for treatment within the time set forth by the court.

Article 179
Reporting of health care institution

1. The health institutions send to the court that has rendered this measure at the first instance, a report on the health conditions and the success of the treatment of the person towards whom the measure was executed, at least once in six (6) months and even often upon request of the court.
2. When the institution of health estimates that it is not necessary anymore to treat the person whom the measure was executed it informs the court immediately which has rendered this decision at its first instance
3. The court that has rendered the measure on the first instance, as per its official duties or as per the proposal of the defendant, the defense attorney, the health institution or the competent custody organ discontinues the measure if it comes to the conclusion that it is not necessary to treat anymore the person whom the measure was executed.
4. The decision to discontinue the measure is taken after the hearing of the state prosecutor, defense attorney and the person whom the measure was executed, if this is permitted by his conditions and after the elaboration of the experts' opinion

Article 180

1. The institution of health immediately informs the court that has rendered the measure at the first instance, when the person whom the measure was executed has not undergone the treatment while in freedom, in case he has arbitrarily discontinued the treatment or if he considers the treatment was unsuccessful.
2. The court, as per this official duty or upon proposal of the health care institution, in which the person is being treated or should be treated, can order the measure of the mandatory psychiatric treatment in detention if:
 - 2.1. the carrier of the of the criminal offence had not undergone the treatment in freedom, has discontinued his her treatment arbitrarily or when the treatment was considered as unsuccessful by the health care institution; and
 - 2.2. if there are reasons for the rendering of such a measure.
3. The decision for the rendering of the measure of mandatory psychiatric treatment in detention is taken after having heard the public prosecutor, the defense attorney and the person whom the measure was executed if his health conditions allow this and after the evaluation of the opinion of an independent expert, that is not employed at the health care institution where the measure is executed.
4. Since the person does not need any more treatment at the institute of health, the competent organ for custody is responsible for the person towards whom the measure is executed for giving help after the discontinuation of the mandatory treatment in freedom.

CHAPTER XIX
THE EXECUTION OF THE IMPRISONMENT SENTENCE
FOR MINOR OFFENCE

Article 181

The application of the provisions of this law

The imprisonment sentence rendered for minor offences or with which the sentence of a fine is replaced with shall be executed as per the provisions of this law, if by a special law is not foreseen differently.

Article 182

The accommodation of the sentenced persons in the correctional institutions

1. The sentenced persons with imprisonment due to a minor offence shall serve their sentence in the correctional institution separated from people held in pre-trial detention.
2. The female persons sentenced with imprisonment due to minor offences serve their sentence in the correctional facility for women separately from female persons in pre-trial detention
3. The juvenile persons sentenced with an imprisonment sentence due to a minor offence shall serve their sentence separately from adults.

Article 183

The competencies on transferring the persons sentenced for serving imprisonment sentences due to minor offences

1. The basic court, in the territory of which the sentenced person has its place of residence or his temporary residence, at the time when the decision rendered for becomes legally binding, is competent to send the sentenced person to serve his sentence of imprisonment due to minor offences.
2. When the place of residence or the temporary place of residence of the sentenced person is unknown, then the basic court is the Municipal Minor Offences court that took the decision in the first instance.
3. If in the minor offence proceedings it is decided that the imprisonment sentence shall be executed immediately regardless of the appeal, the sending of the sentenced person to serve his sentence is done by the basic court which took the decision at the first instance.

Article 184

If the basic court, which has rendered the imprisonment sentence or has replaced the sentence of a fine with an imprisonment sentence, is not competent for its execution, then it is obliged to send to the competent basic court the decision that has becomes legally binding and executable, for not later than within the time limit of three (3) days after the decision took its executable form.

Article 185

1. The basic court shall order in written the sentenced person to be present on the foreseen day at the correctional institution for serving his sentence due to minor offences.
2. The time period between the receiving of the order and the day of when one has to be present for serving the sentence shall not be shorter than eight (8) days and not longer than fifteen (15) days.
3. The basic court shall inform the correctional institution related to the date when the sentenced person should appear at the institution and hand over the legally binding decision, the personal data for the sentenced person that were gathered during the minor offences proceedings.

Article 186

The commencement of serving the sentence of minor offences sentence

1. The correction institution shall inform the basic court whether the sentenced person showed up to serve his sentence due to minor offences.
2. The commencement of serving of the imprisonment sentence shall be calculated from the day when the sentenced person appeared to serve the sentence at the correctional facility.

Article 187

1. If the sentenced person with imprisonment due to minor offences was summoned in a regular manner and does not appear at the correctional institution, the competent court for minor offences shall order his escorting, and if he is hiding or at large, the court shall order the issuing of an arrest order.
2. In cases as foreseen under paragraph 1. of this Article the commencement of the execution of the imprisonment sentence due to minor offences shall be calculated from the day when the sentenced person was apprehended whereas the transportation fees shall be covered by the sentenced person.

Article 188

The postponement of execution of the imprisonment sentence for minor offences

1. The execution of the imprisonment sentence for minor offences can be postponed for the same reasons for which the execution of imprisonment sentence rendered for a criminal offence can be postponed.
2. The postponement of the commencement of serving the imprisonment sentence due to minor offences, as per paragraph 1. of this Article, cannot last longer than sixty (60) days.

Article 189

The procedure of postponing the execution of the imprisonment sentence due to a minor offence

1. The convicted person submits the request for the postponement of the execution of imprisonment sentence with imprisonment due to minor offences within three (3) days from having received the order for holding the sentence.
2. The request for the execution of the imprisonment sentence due to minor offences should be submitted to the competent President of the basic court.
3. The President of the basic court decides on the request for the postponement of execution of the sentence within three (3) days from the moment when the request was received
4. The President of the basic court can refute the request for the execution of the imprisonment sentence or if it is not submitted within the foreseen time period, if submitted by an unauthorized person or if the evidence that support it is not attached within the foreseen time period.

Article 190

1. Against the decision of the first instance court, which refuses the postponement of the execution of the imprisonment sentence due to minor offences, the defendant can file an appeal to the President of the Appeal Court within a time period of three (3) days from the day of receiving the decision.
2. The President of the Appeal Court decides on the appeal within three (3) days after having received it.

Article 191

Suspension of execution of sentence

1. The request for the postponement of the execution suspends the execution of the sentence until a legally binding decision is taken related to that request.
2. The President of the basic court after having received the second request comes to the conclusion that the right to appeal is misused decides that the appeal shall not suspend the execution of the sentence.

Article 192

Revocation of execution of sentence

1. The President of the basic court revokes the execution of the imprisonment sentence if later it is concluded that the reasons for the allowing of the execution have not existed or have ceased to exist or if the sentenced person has used the postponement for other aims and not what it is allowed for.
2. The sentenced person has the right to appeal against the decision for revoking or the discontinuation of the suspension for the execution of the sentence under the same conditions as against the decision based on which it was decided regarding the request for postponement.
3. The appeal shall suspend the execution of the decision

Article 193

The discontinuation of serving of the imprisonment sentence

1. Upon request of the sentenced person for minor offences, excluding reasonable cases, the discontinuation of serving of the imprisonment sentence can be allowed but not longer than ten (10) days. In extraordinary cases, aiming medication the discontinuation can be extended and last until the end of the medication.
2. The spent in the allowed in the allowed discontinuation shall not be calculated in the serving of the sentence.

Article 194

Enforcement of the provisions on the conditioned release of the convicted persons

The provisions of this law refer to the conditioned release and the release of persons sentenced, in an adjustable manner, also to the persons sentenced with imprisonment due to minor offences.

CHAPTER XX

THE EXECUTION OF THE SENTENCES WITH A FINE AND OF PROTECTION MEASURES RENDERED DUE TO MINOR OFFENCES

Article 195

The provisions of this law that refer to the execution of the sentence with a fine and of the additional sentences rendered due to criminal offences are applied in an adjustable manner, also when related to the sentence with a fine and the protection measures rendered for minor offences unless by law is not foreseen differently.

CHAPTER XXI

EXECUTION OF DETENTION MEASURES

Article 196

The manner of execution of detention measure

1. Detention measures according to judgments of the competent courts shall be executed at respective correctional institutions.
2. Detained persons shall be subject to the respective provisions of the Criminal Procedure Code and the provisions of the present Law.
3. Upon prosecutor's request and if in the interest of justice, the court may order the restriction of certain rights of a detained person.

Article 197

Accommodation of detained person

1. Respective correctional institutions shall accommodate persons who have been ordered detention by a judgment of the competent court. Respective correctional

institutions shall be provided with the judgment ordering detention and the written order for the admission of the detained person.

2. Respective correctional institutions shall issue a written certificate on the admission of the detained person, which, among other, shall include the date and time of admission as well as the name and surname of the person that escorted the detainee.

Article 198

Medical check and notifying him of his rights

1. Immediately after admission in the respective correction institution, the detainee shall be subject to the medical check and doctor's conclusion and opinion shall be recorded in the medical card of the detainee.
2. After admission in the respective correctional institution, the detainee shall be informed on the domestic order act for the execution of detention measure and other rights and obligations during the implementation of the detention measure.
3. Detainees who jointly committed a criminal act shall be accommodated in separate premises.

Article 199

Conditions for persons in detention

1. Respective correctional institutions shall provide the same conditions to detainees in terms of accommodation, food, health care, use of measures of force, special measures to keep order and security and compensation of the damage caused during the implementation of the detention measure as for convicted persons.
2. In case a detainee has to be escorted outside the premises of the correctional institution regardless of the grounds of exit, police shall provide security.

Article 200

1. A detainee may work in the workshop, workshops of the economic units within the respective correctional institution only with the approval of the competent court.
2. A detainee working shall be entitled to compensation and other work-related rights envisaged for convicted persons in compliance with the present Law.

Article 201

1. If during the execution of the detention measure the detainee commits a disciplinary violation or any other minor offence, the correctional institution shall inform the court that led the procedure of the case.
2. Competent court shall also be notified in case the detained person escapes. The court shall issue an order for an arrest warrant in order to find and bring in the detainee.
3. The president of the competent court shall oversee the execution of the detention measure, in compliance with the Criminal Procedure Code.

Article 202

The detainee shall be released from the correction institution with a judgment abrogating the detention order issued by the competent court or after the completion of the term set out in the detention measure.

Article 203

A detainee, who, on the basis of the provisions of the Criminal Procedure Code is sent to serve the improvement sentence upon his/her own request, prior to the final judgment, shall be treated the same as other convicted persons with regard to rights and obligations.

Article 204

1. The domestic order act within correctional institutions shall particularly set out, as follows:
 - 1.1. admission and accommodation of detainees;
 - 1.2. health and hygiene measures and food;
 - 1.3. visits;
 - 1.4. receipt of deliveries and press;
 - 1.5. work and behavior of detainees and maintenance of order and discipline;
 - 1.6. procedure in case of escape or pass away of the detained person;
 - 1.7. behavior of detainees and release; and
 - 1.8. other issues of importance for the execution of the detention measure.

PART FIVE

EXECUTIVE BODIES TO EXECUTE PENAL SANCTIONS

CHAPTER XXII

KOSOVO CORRECTIONAL SERVICE

Article 205

Activity of the Kosovo Correctional Service

1. The Kosovo Correctional Service (hereinafter referred to as: the Correctional Service) is the central body of state administration, professional, independent, uniformed with ranks and partly armed, within the Ministry of Justice (hereinafter referred to as: the Ministry).
2. The Correctional Service is partially responsible to carry out the duties below:
 - 2.1. organizing, applying and supervising the execution imprisonment and life imprisonment;
 - 2.2. organizing, applying and supervising the juvenile imprisonment and educational measures, unless otherwise provided for in the Juvenile Justice Code;
 - 2.3. organizing programs that contribute to the rehabilitation, preparation for

release and long-term supervision of persons sentenced to imprisonment and life imprisonment.

- 2.4. evaluating criminal risk and assessing the treatment needs of the committers of criminal acts;
 - 2.5. instructing and supporting convicted persons to complete serving their sentence;
 - 2.6. undertaking measures to educate and professional train the civil staff and officers of the Correctional Service;
 - 2.7. cooperating with respective institutions, associations and organizations dealing with problems in the execution of penal sanctions.
3. The Correctional Service shall hold the status of the legal person.
 4. The Correctional Service has its identifying badge and has its seat in Prishtina.

Article 206

Organizational Structure of the Correctional Service

1. The following basic organizational units shall be established for the performance of tasks and duties by the Correctional Service:
 - 1.1. Central Correctional Service Office, resident in Prishtina; and
 - 1.2. Correctional institutions.
2. Internal organization and structuring of the Correctional Service and correctional institutions shall be regulated with a special act to be approved by the Minister and shall be included as a special chapter in the Regulation on the Internal Organization and Systematization of Posts in the Ministry.

Article 207

Responsibilities of central correctional service office

1. Central Correctional Service Office shall monitor and oversee the legality of work and actions of the organizational units of the Correctional Service as well as correctional institutions.
2. Central Correctional Service Office shall establish directorates and sectors. Directorates shall be led by Heads, who shall be appointed by the General Director of the Correctional Service.
3. The General Director of the Correctional Service shall simultaneously serve as the Head of the Central Correctional Service Office.

Article 208

Kinds of correctional facilities

1. In the Correctional Service exist the following kinds of correctional facilities:
 - 1.1. prisons, for the execution of imprisonment and life imprisonment;
 - 1.2. detention centers, for the execution of detention on remand and the execution of sentences of imprisonment up to three (3) months;
 - 1.3. prisons for women, for the execution of, imprisonment, long term imprisonment and juvenile imprisonment imposed on women;

Criminal laws

- 1.4. prisons for minors, for the execution of juvenile imprisonment;
- 1.5. educational-correctional institutions, for the execution of the educational measure of committal of a minor offender to an educational-correctional institution;
- 1.6. prison hospitals, for the treatment of detainees on remand and convicted persons.

Article 209

Types of correctional facilities

1. According to the level of security and the nature of the treatment of the convicted persons correctional facilities may be of the confined, semi-confined and open type.
2. In confined correctional facilities, there are elements of physical and material security such as armed guards, surrounding walls or surrounding wires, technical devices and other security measures which constitute impediments to the escape of convicted persons. Within confined correctional facilities is High security prison for the execution of sentences against persons who are qualified as highly dangerous persons, detaining highly dangerous persons and those who are sentenced with life imprisonment
3. In semi-confined correctional facilities, there are no elements of physical security in the form of the supervision of the movement and work of the convicted persons, but there are elements of material security which would constitute impediments to the escape of convicted persons.
4. In open correctional facilities there are no elements of material nor physical security which would constitute impediments to the escape of convicted persons. Conduct towards the convicted persons is based on their self-discipline and personal responsibility and the correctional staff supervises the movement and work of the convicted persons.
5. At least one-third (1/3) of life imprisonment shall be served in correctional facilities of the confined type.

Article 210

Within a correctional facility there can be open, semi-confined and confined units.

Article 211

Establishment of correctional facilities

Upon the proposal of the Minister the correctional facilities shall be established with a secondary legislation of the Government of the Republic of Kosovo. Kind, type and seat of the correctional facilities shall be determined by a secondary legislation.

Article 212
Economic units

1. Correctional institutions shall establish one or more economic units for the work of convicted persons.
2. Economic unit shall be established with the decision of the Ministry of Justice.
3. The request initial funds for the establishment of economic unit shall be provided by the Budget of the Republic of Kosovo.
4. The work of economic unit shall be led by the head of the institution or a person authorized by him/her.

Article 213
The status of economic unit

1. Economic unit shall hold the status of the legal person and shall be represented with its designation and on its account.
2. Economic unit shall generate dedicated revenues for needs of the Correctional Service.

Article 214
Dedicated Revenues

Ministry of Justice shall issue sub-legal act for use and allocation of dedicated revenues.

Article 215
General Director of the Correctional Service

1. The Correctional Service shall be managed by the General Director of the Correctional Service (hereinafter referred to as: the General Director).
2. The General Director shall be appointed following an open competition by the Ministry of Justice in compliance with Civil Service provisions on the appointment of senior management posts within the Civil Service of the Republic of Kosovo. The professional assessment commission shall comprise professional representatives from the Ministry of Justice, Correction Service, a judge from the Appeal Court, state prosecutor and a professor from Faculty of Law – Criminal – Law branch.
3. The General Director is heading, controls and manages the Correctional Service in all matters connected with the Correctional Service.
4. The General Director shall be appointed for a period of five (5) years with the possibility of reappointment.
5. The General Director reports directly to the Minister for its work.

Article 216
Conditions for the appointment of the General Director

1. A person (candidate) to exercise the task of the General Director of the Correctional Service should have the following qualities:

Criminal laws

- 1.1. to be a citizen of the Republic of Kosovo;
 - 1.2. to have a University degree;
 - 1.3. to have eight (8) years of professional experience, out of which, at least, five (5) years of experience in management positions;
 - 1.4. not to be a member of any political party;
 - 1.5. to have a moral and professional reputation and not to be convicted for any criminal act.
2. The Correctional Service may also have Deputy General Directors who shall be appointed according to procedures, conditions and duration provided for a General Director.

Article 217 **Directors of the Correctional Institutions**

1. Directors of the Correctional Institutions shall be appointed through an open vacancy by the Ministry of Justice, in accordance with the provisions of Civil Service for appointment to senior managing positions in the Civil Service of the Republic of Kosovo.
2. Directors of the Kosovo Correctional Institutions shall be appointed in compliance with the provisions to appointment of General Directors.
3. Directors of the Correctional Institutions shall be appointed for a time period of five (5) years with a possibility of extension.
4. A person (candidate) to exercise the task of the Director of the Correctional Institutions shall have the following qualities:
 - 4.1. to be a citizen of the Republic of Kosovo;
 - 4.2. to have a University degree;
 - 4.3. to have six (6) years of professional experience, out of which, at least, three (3) years of experience in management positions;
 - 4.4. not to be a member of any political party;
 - 4.5. to have a moral and professional reputation and not to be convicted for any criminal act.
5. The Minister himself or herself may suspend or discharge the Directors of the Correctional Institutions for the breach of the law or inefficiency at work.
6. The decision of the Minister to suspend or discharge the Directors of the Correctional Institutions is final.
7. The Correctional Institutions may also have General Deputy Directors who shall be appointed according to procedures, conditions and duration foreseen for directors of correctional institutions.

Article 218 **Internal Organization of Correctional Institutions**

Correctional institutions, depending from size and content of the works of the correction institutional, may establish directorates and sectors. Directorates may be established on: security, treatment and administration. Services may be organized into sector or other special structures. The secondary legislation on Internal Organization

Law No. 04/L-149 on execution of penal sanctions and Systematization of Posts in the Correctional Service shall define the internal organization and posts in correctional institutions.

Article 219
Staff of Correctional Service

1. Personnel of the Correctional Service and correctional institutions, in accordance with the Kosovo Civil Service provisions, consist of civil servants, while correctional officers of Correctional Service shall be regulated in accordance with the present law.
2. The work relation of correctional officers shall be regulated with a secondary legislation issued by the Minister.
3. The Correctional Service drafts, while the Minister approves the Code of Professional Ethics for correctional officers of the Correctional Service.

Article 220
Correctional officers

1. Correctional officers shall be appointed and dismissed by the General Director on the basis of the open competition and in compliance with the present Law.
2. Correctional Service shall employ as correctional officers, persons fulfilling the following:
 - 2.1. general conditions on civil staff provided for by the Law on Civil Service;
 - 2.2. specific conditions with a view to the respective school and professional qualification, work experience and other conditions set out in the Regulation on Internal Organization and Systematization of Posts in the Ministry of Justice.
3. Persons establishing employment relationship as correctional officers with the Correctional Service on security directorates, treatment as educators and as instructors, apart from conditions set out in paragraph 1. of the present Article, shall possess the required health and psycho-physical abilities and skills for the performance of these jobs.

Article 221

1. Due to hazard, gravity of work and special working conditions, each twelve (12) months of work by correctional officers, shall be calculated as sixteen (16) months of work experience, and when calculating their salaries an allowance shall be ensured.
2. Categorization of correctional officers, who shall be entitled to benefits provided for in paragraph 1. of the present Article, shall be regulated with a special secondary legislation to be issued by the Minister.

Article 222

With the decision of the Director of correctional institution and for the interest of the service, when needed, an employed person shall be obliged to work extra hours and his/her annual leave may be interrupted or postponed.

Article 223

1. Employees as correctional officers in the correctional institutions, working in the execution of penal sanctions, shall be obliged to have a completed education and permanent vocational training in compliance with the vocational training and education curricula.
2. For the vocational training and education of employees set out in paragraph 1. of the present Article, Correctional Service may independently or through a professional local or international organization organize seminars, counseling and other forms of vocational training.
3. Vocational training and education curricula shall be issued by the General Director upon the approval of the Minister.

Article 224

1. Confirmation of health and psycho-physical abilities of employees as correctional officers working in the area of security shall be conducted every two (2) years. However, if necessary the General Director may decide to conduct the confirmation in shorter periods of time.
2. Confirmation of health and psycho-physical abilities of employees working in other posts, whose work experience is calculated in an increased form, shall be performed every three (3) years. However, if necessary the director of the correctional institution may decide to conduct the confirmation in shorter periods of time.
3. If an employee from paragraphs 1. and 2. of the present Article suffers psychic or general health condition changes, which make the employee incapable of performing his/her tasks, the competent body shall be instructed to assess the working ability of the employee in line with the Law setting out entitlements from the pension and disability insurance.
4. If the competent body determines the existence of limited professional abilities, the employee shall be assigned to another post within the possibilities of the Correctional Service or shall be subject to re-qualification. If there are no possibilities of assignment to another post, the employment relationship with the employee shall be terminated.
5. Decision on the termination of employment relationship shall be made by the General Director.

Article 225 **Transfer**

1. Due to work requirements or due to an increase in the volume of work, an employee of the correctional institution in the context of Article 221, paragraph 1. of the present Law, may be transferred provisionally without the employee's consent to another correctional institution for a maximum of six (6) months within a two (2) year period and with employee's consent for a maximum of twelve (12) months.

2. Decision on transfer shall be made by the General Director. There is no right of appeal to the decision on transfer.

Article 226

1. Correctional officers, employed in the correctional institution, apart from the director and deputy director of the correctional institution and heads of organizational units, may, with the consent of the General Director, be assigned to other posts in the correctional institution provided that the employee fulfils the conditions envisaged in the Regulation on the Organization and Systematization of Posts and if the assignment is deemed necessary with the new organization or rationalization of work or is needed for the purpose of work.
2. An appeal against the decision from the previous paragraph may be initiated with the Minister within eight (8) days from the day the decision is received.

Article 227

Termination of Employment Relationship for Correctional Officers

1. Employment relationship of the correctional officers in the Correctional Service shall be terminated:
 - 1.1. in case of pass away;
 - 1.2. with the expiry of the term, if the employment relationship had a certain period of time defined;
 - 1.3. on request/agreement;
 - 1.4. when completing conditions on the retirement age as provided for by the law;
 - 1.5. in case of reorganization of the correctional institution or termination of the post, unless the employee is reassigned to another post within three months from the point of reorganization or termination;
 - 1.6. with a final judgment ordering an imprisonment sentence for at least six (6) months;
 - 1.7. if the employee refuses reassignment or when for unreasonable grounds the employee fails to appear in the reassigned post;
 - 1.8. if when establishing employment relationship, the employee did not reveal or provided inaccurate data that are of importance for the establishment of the employment relationship; and
 - 1.9. if there are no possibilities of reassignment to another post, within three (3) months as of dismissal, that would meet employee's professional qualification level.
2. A decision shall be made on the termination of employment relationship with the right of appeal to the General Director within eight (8) days from the day the decision is received. The decision of the General Director shall be final, however an administrative dispute with the competent court may be initiated against the General Director's decision.
3. In case there is a reorganization or cessation of the correctional institution, the Minister shall set out the criteria for the determination of redundant correctional staff and the rights the staff are entitled to on these grounds.

Article 228

Compensation for Pass Away while on Duty or during the Performance of Duties

1. Correctional Service shall cover the funeral ceremony expenses for the correctional officer passing away while on duty or during the performance of duties. The burial location shall be determined by the members of the family of the deceased correctional officer. Correctional Service shall cover the following expenses:
 - 1.1. transport for the corpse;
 - 1.2. travel costs for two (2) escorting persons;
 - 1.3. funeral costs that have not been paid in other forms;
 - 1.4. other expenditures with the approval of the Minister.
2. Correctional Service shall transfer to the spouse or children under the age of eighteen (18) of the correctional officer passing away while on duty or during the performance of duties an immediate financial assistance in an amount equal to six (6) months' gross salaries. Such a transfer will be executed only when ascertaining that the spouse or children were dependent on the correctional officer prior to his/her pass away. At certain cases, following an assessment, the Government may allocate a higher financial sum for the correction officer passing away during the performance of duties.
3. The dependent spouse and children under the age of eighteen (18) of the correctional officer who passed away during the performance of duties, shall be entitled to a family pension in the amount of sixty percent (60%) of the officer's gross salary.
4. With the proposal of the Ministry of Justice, the Government shall approve secondary legislation setting out compensations for correctional officers passing away while on duty or during the performance of duties.

Article 229

Disciplinary Procedures for Correctional Officers

1. All disciplinary violations involving a correctional officer shall be investigated and decided upon by the Central Correctional Service Office.
2. Disciplinary violations, procedure and measures for correctional officers shall be regulated by secondary legislation to be issued by the Minister.

Article 230

Disciplinary procedures

1. The Disciplinary Committee, which is appointed by the correctional institution director, shall manage the disciplinary procedure for employees (civil staff and correctional officials) within the correctional institution. With the proposal of the Disciplinary Committee, the correctional institution director shall decide for the disciplinary responsibility.
2. The Disciplinary Committee, which is appointed by the General Director, shall manage the disciplinary procedure against the correctional institution director and the employees in the Head Office of the Correctional Service. With the proposal of

the Disciplinary Committee, the General Director shall decide for the disciplinary responsibility.

3. The General Director may file an appeal against the first-instance decision issued in a disciplinary procedure in a period of eight (8) days from the date of receipt of the decision.
4. The General Director establishes a Committee on appeal in order to review appeals and granting of proposals with regard to their highlights and the legality of decisions in a disciplinary procedure.
5. The decision of the General Director in relation to the appeal is final.

Article 231 **Disciplinary measures**

1. Commission may impose disciplinary measures as in the following:
 - 1.1. warning;
 - 1.2. warning in written;
 - 1.3. reduction of personal income up to thirty percent (30%), having into consideration the nature of the violation;
 - 1.4. transfer to other correctional institutions for a maximum period of six (6) months;
 - 1.5. degradation;
 - 1.6. termination of the work relation.
2. Commission shall propose sanctions in harmony with the level of the disciplinary liability and the consequences of violation.

Article 232 **Publicity of work of Correctional Service and Probation Service**

1. Correctional Service and Probation Service work is public.
2. The Minister and the General Director of the Correctional Service or the General Director of the Probation Service shall inform the public, directly or through authorized persons, on the execution of sanctions or probation works provided that the official confidentiality is preserved, there is no serious security or maintenance of order threat in the correctional institution executing the sanction and probation works.
3. With the consent of the Minister, the directors of the Correctional Service and Probation Service shall appoint a spokesperson.
4. All information concerning convicted persons and detainees on remand is confidential and shall not be disclosed or shared with the public or media.
5. Exceptionally, from paragraph 3. of this Article the Ministry of Justice may disclose confidential information to the media or other public information groups if the release of such information is in compliance with the overall social interest. Such confidential information shall not be disclosed if disclosure would be dangerous for the overall security and order of the correctional facilities or when the release of such information could harm the aim of the sentence.
6. Convicted persons shall not be interviewed by the media, local public groups or other individuals without his or her prior informed consent.

Criminal laws

7. The Minister shall issue a secondary legislation on the confidentiality of information, information sharing and disclosure and media guidelines.
8. The provisions of the present Article are without prejudice to the powers of access that the Ombudsperson, judges and other judicial officials may have under the applicable law on confidential documents, files and information, Kosovo Criminal Code.
9. The Minister, in accordance with the act on domestic order of correctional institutions, may grant the access to the organization documents that are dealing with the Human Rights issues.

Article 233

Visits by individuals or groups to correctional facilities

1. The General Director has the authority to approve visits by individuals or groups to correctional facilities.
2. Provisions from paragraph 1. of the present Article shall not be valid for representatives of state bodies when performing duties within their area of competencies.
3. Special attention shall be paid to enabling visits of local and international institutions and associations' representatives dealing with the protection of human rights, scientific researchers dealing with crime research, representatives of the media and students of the respective faculties.
4. The General Director may approve conversations with convicted persons, with or without the presence of the official person, for persons visiting correctional institutions.

Article 234

Medals, Appreciations, Acknowledgements and Rewards

1. Prime Minister, Minister and General Director are authorized to give medals, appreciations, rewards and acknowledgements to correctional officers, other employees of the Correctional Service, distinct national and international legal and natural persons on the basis of merits.
2. The Prime Minister shall award the following medal:
 - 2.1. Medal of Honor;
3. The Minister shall award the following medals:
 - 3.1. Medal of Merit;
 - 3.2. Medal of Courage; and
 - 3.3. Medal on Life Saving.
4. General Director shall award the following medals:
 - 4.1. Medal on Distinctive Service;
 - 4.2. Correctional Medal of Appreciation; and
 - 4.3. Medal on Loyal Service.

CHAPTER XXIII
PROBATION SERVICE

Article 235
Activities of Probation Service

1. The Probation Service is a central organ of the state administration within the Ministry.
2. The Probation Service is responsible to carry out the duties below:
 - 2.1. organizing, applying and supervising the execution of the alternative punishments and the social re-integration of the convicted persons (probation duties);
 - 2.2. preparing social inquiries and pre-punishment reports for the committals of criminal acts;
 - 2.3. evaluating criminal risk and assessing the treatment needs of the committers of criminal acts;
 - 2.4. executing diversity measures and educational measures for juvenile;
 - 2.5. supervising and assisting convicted persons serving alternative punishments;
 - 2.6. supervising and assisting perpetrators addicted to drugs or alcohol subject to mandatory rehabilitation treatment which is executed in liberty;
 - 2.7. supervising and supporting the convicted persons on parole;
 - 2.8. developing of individual supervising programs;
 - 2.9. drafting of reports on execution the alternative punishments and on parole by jail for the prosecutors, courts and Parole Panel;
 - 2.10. guiding and supporting convicted persons on the completion of their sentence;
 - 2.11. keeping evidence and registry of the execution of alternative measures and punishments in electronic system for data management;
 - 2.12. any other task as defined by the Minister.
3. Ministry of Justice and Probation Service shall cooperate with state bodies, scientific and other institutions, local government bodies and other institutions and legal persons as well as share relevant information for the purpose of implementing probation duties.
4. Probation Service shall hold the status of a legal person.
5. Probation Service shall have its identification badge and shall be resident in Prishtina.
6. Internal organization and systematization of the Probation Service and the Regional Probation Offices shall be regulated with a special act to be approved by the Minister. This act shall be included as a special chapter in the Regulation on Internal Organization and Systematization of Posts in the Ministry.

Article 236
General Director of the Probation Service

1. Probation Service shall be led by the General Director of the Probation Service.
2. General Director shall be appointed following an open competition by the

Ministry of Justice in compliance with Civil Service provisions on the appointment of senior management posts within the Civil Service of the Republic of Kosovo. The professional assessment commission shall comprise professional representatives from the Ministry of Justice, Correction Service, a judge from the Appeal Court, state prosecutor and a professor from Faculty of Law – Criminal – Law branch.

3. The General Director shall be appointed for a five (5) year mandate with a possibility of re-appointment.
4. The General Director shall be directly accountable to the Minister.
5. The General Director shall lead, manage and control the Probation Service and all other issues related with the Probation Service.

Article 237

Conditions for the Appointment of the General Director of the Probation Service

1. The duties of the General Director of the Probation Service may only be exercised by a person (incumbent), fulfilling the following conditions:
 - 1.1. shall be a citizen of the Republic of Kosovo;
 - 1.2. shall hold a university degree;
 - 1.3. has eight (8) years of professional work experience, out of which at least (5) in managerial posts;
 - 1.4. shall not be a member of any political party;
 - 1.5. shall hold a moral and professional reputation and was not convicted for a criminal act.

Article 238

Organizational Structure of the Probation Service

1. Probation Service shall establish the following basic organizational units for the purpose of performing duties and tasks within its area of competency:
 - 1.1. Central Probation Service Office, resident in Prishtina; and
 - 1.2. Regional Probation Offices.
2. Internal organization and systematization of the Probation Service and the Regional Probation Offices shall be governed by the Regulation on the Internal Organization and Systematization of Posts in the Probation Service, to be approved by the Minister and it shall be included as a special chapter in the Regulation on the Internal Organization and Systematization of Posts in the Ministry.
3. Central Probation Service Office shall monitor and oversee the legality of work and actions of the organizational units of the Probation Service and Regional Probation Offices.
4. Central Probation Service Office shall establish its directorates and sectors. Directorates shall be led by Heads, to be appointed by the General Director of the Probation Service.
5. General Director of the Probation Service shall simultaneously serve as the Head of the Central Probation Service Office.
6. Regional Probation Offices, performing probation work within the responsibilities

of the Probation Service, shall be established with a decision of the Minister for the territory of the basic courts. Regional Probation Offices shall be led by the Heads of Offices, who shall be appointed by the General Director of the Probation Office through an open competition in compliance with the Law on Civil Service.

Article 239

1. Having into consideration the risk, the importance and the special conditions of the work, every twelve (12) working months shall be calculated as sixteen (16) months of secured experience for the personnel of the Probation Service, whilst in the calculation of their salaries an additional income shall be provided.
2. Categorization of the personnel, the ones that shall realize the benefits which are set forth in paragraph 1. of this Article, shall be regulated with a special secondary legislation drafted by the Ministry of Justice.

CHAPTER XXIV SUPERVISION OF WORK OF CORRECTIONAL INSTITUTIONS

Article 240

Administrative supervision

1. The administrative supervision of correctional institutions shall be carried out by the Head Office of the Probation Service in accordance with the legal provisions.
2. In implementing the administrative supervision, the legality of work and action, the legality of acts from the powers of the correctional institution director, work efficiency and suitability in carrying out the works out of the scope of correctional institutions shall be supervised.
3. Supervision with regard to providing health protection for imprisoned persons shall be carried out by the ministry in charge of health, while toward the ministry in charge of education shall provide education programs for convicted persons and their application.

Article 241

Professional Board

For the purpose of monitoring, research and advancing the system of the execution of criminal sanctions, a Professional Board shall be established comprising the representatives of scientific institutions, courts, administrative bodies, professional associations, civil society and other institutions dealing with criminality and education of convicted persons.

Article 242

Internal Inspection of Correctional Facilities

1. The Minister establishes the Inspectorate for the observation of the work of the Correctional Facilities (hereinafter referred to as: the Inspectorate)

2. The Inspectorate is a special organized structure and operates within the Ministry of Justice. The Head Inspector manages the Inspectorate.
3. Appointment and discharge of the Head Inspector and inspectors for the management positions shall be done in accordance with the rules of the Law for Public Service
4. According to this law and secondary legislation drafted for its implementation, the Ministry of Justice through the inspectors shall carry out the activities of inspection
5. Head of inspectors may be appointed a person who has a University degree and has at least seven (7) years of working experience, and four (4) years of working experience in management positions.
6. Inspector may be appointed a person who has a University degree and at least three (3) years of relevant working experience

Article 243

Rights and duties of the inspectors

1. The Ministry supervises the application of the provisions and professional work of correctional institutions, in order to ensure a unique system of the execution of penal sanctions, conveyance of the positive experiences, analysis and follow up of the performance of several organization units of correctional institutions, as well as providing professional assistance for those units.
2. The inspector shall supervise the implementation of the provisions of this law, secondary legislation drafted for its appliance, and has the authority:
 - 2.1. to enter, at any time and without an announcement, in all the places and facilities of the Correctional Service with the intention of inspection;
 - 2.2. to order that all the detected faults and failures be eliminated within a period of time determined by him;
 - 2.3. to verify each case separately any time when there is suspicion of law violation. The inspector shall initiate the procedure either through his official duty or with the initiative of the interested person;
 - 2.4. to recommend liable subjects to take disciplinary measures in accordance with the hierarchic structure.
3. The subject which has been ordered to eliminate his faults and irregularities according to paragraph 2., sub-paragraph 2.2. of this Article, after the elimination of the faults and irregularities, is obliged to inform the inspectorate within a time limit determined by the inspector and which time limit may not be longer than eight (8) days.
4. The inspector is obliged:
 - 4.1. to make a report related to the supervision of the inspection he is operation;
 - 4.2. to keep secret all the notes that he gathers during the inspection work which, and with the internal acts they are considered as confidential. The disclosure of such acts shall be done in front of the authorities determined by the law only;
 - 4.3. to write regular reports for the Permanent Secretary, and, at least, once in three (3) months for the Ministry of Justice in connection with his detections.

5. Supervision of the work of correctional institutions with regard to financial control, employment, occupational safety, health care, sanitary measures of convicted and detained persons as well as conditions and the manner of nutrition, shall be performed by authorized bodies in compliance with special provisions.

Article 244

Independence and Objectiveness

1. During the performance of their duties the inspectors shall be independent and objective from any type of interference which may have a direct or indirect influence.
2. Inspectors shall perform their duties with professional skills and full responsibility and shall be free from any type of interference which may have an influence on the correct judgment or in the result of the inspection.
3. In the performance of inspection supervision, inspector is independent and takes actions based on the law and other provisions. Due to risk, importance and special working conditions, the Minister with a decision determines the additional amount on personal income for the inspectors.
4. The annual evaluation of each correctional institution is done based on inspection and that is:
 - 4.1. by determining if the activities have been carried out effectively, especially those related to the admission procedure, applying of the disciplinary punishment, security matters, security matters, health and medical insurance and the provision of educational and social help;
 - 4.2. by reviewing the confidentiality of the financial information and of those of management;
 - 4.3. by verifying if the estates which belong to the Correctional Service are controlled and secured from loss, in particular, maintenance and cleaning of the premises;
 - 4.4. by evaluating the effective usage of the human resources; and
 - 4.5. by supervising if the determined objectives of the program have been achieved.
5. The Minister shall issue the secondary legislation in relation to inspection supervision of the work of correctional institutions.

Article 245

1. The director of a correctional institution and all employees are obliged to cooperate with inspectors in fulfilling their authorizations and duties with regard to oversight, make available all documentation and required data and enable them an unhindered performance.
2. During oversight, inspectors may talk with convicted persons in the absence of the correctional institution employees as well as all employees of the correctional institution in the absence of their direct superiors or the head of the correctional institution.
3. When deemed necessary, an inspector may put in the minutes the statements of persons from paragraph 2. of the present Article.

Article 246

1. The minutes from the performance of inspection supervision shall be sent to the Minister, General Director and Director of Correctional Institution, where the inspection supervision was conducted.
2. Correctional institution is obliged to act on the basis of measures ordered and timelines set and shall inform the Inspectorate in writing of its actions.
3. A director of the correctional institution may submit an objection with the Minister against the measures ordered and/or timelines set within eight (8) days from the day the minutes is received. The objection shall not postpone the execution of ordered measures.
4. On the basis of arguments in the objection, the Minister may stop or set other timelines for the execution of ordered measures or may order other measures for the elimination of deficiencies observed.
5. The object shall postpone the execution of ordered measures only if the report evaluates that in acting so the immediate danger for the life, health or property is eliminated and when this is in the interest of correctional institution security.

Article 247

1. If the oversight procedure finds that the correctional institution does not fulfill the health and hygiene conditions or if there is a security risk, the Minister may make a decision on provisional termination of operation of the correctional institution and transfer convicted persons or detained persons at another correctional institution.
2. If there is a security breach in the correctional institution, the Minister may dismiss the director of the correctional institution and appoint, provisionally, another person to perform the duties of the director of the correctional institution.

Article 248

1. Supervision with regard to the protection and the state of human rights and conditions where penal sanctions and other measures of the penal procedure are executed shall be conducted by the Officer on the Rights of Prisoners within the Office of the Human Rights in the Ministry.
2. Officer on the Rights of Prisoners shall perform supervision with regard to the protection and the state of human rights and conditions where penal sanctions and other measures of the penal procedure are executed by correctional institutions independently or in cooperation with competent inspectors or with international or other institutions that are competent in the oversight and achievement of fundamental human rights and freedoms in compliance with the law and respective international documents.
3. Officer on the Rights of Prisoners shall be independent in its work and the competent bodies and institutions are obliged to make available all data of importance for his/her work.
4. Officer on the Rights of Prisoners shall report to the Head of the Office on Human Rights and the General Secretary of the Ministry.

PART SIX
TRANSITIONAL AND FINAL PROVISIONS

CHAPTER XXV
TRANSITIONAL AND FINAL PROVISIONS

Article 249
Secondary legislation

1. The Minister shall issue the Secondary legislation for the implementation of this Law within twelve (12) months of the entry into force of this Law.
2. Until drafting the secondary legislation provided by this law, the provisions issued under present provisions shall be applied, unless they are inconsistent with this law.
3. The Minister of Education with the consent of the Minister of Justice in a period of six (6) months following entry into force of the present law will issue the secondary legislation, regulating the education of the convicted persons (Article 83 paragraph 7.).

Article 250

The execution of sentences initiated before the date of entry into force of this Law but which have not been completed by this date shall be continued and finished according to the provisions of the present Law, unless the provisions of the previous applicable law are more beneficial to the convicted person

Article 251

Upon the entry into force of this Law, if any prescribed period of time is running, such period shall be counted pursuant to the provisions of this Law, except if the previous period of time was longer or the provisions of the present Chapter provide otherwise.

Article 252

1. With the entry into force of the present Law, the following correctional institution in the Republic of Kosovo shall continue working:
 - 1.1. Correctional Centre Dubrava- closed-type correctional facility;
 - 1.2. Correctional Centre Lipjan- semi-open type correctional facility;
 - 1.3. Correctional Centre Smrekovica - open-type correctional facility;
 - 1.4. High Level Security Prison – closed type correctional facility with maximum physical and technical security.
 - 1.5. Detention Centre Lipjan- closed/semi-open type correctional facility;
 - 1.6. Detention Centre Prishtina- closed-type correctional facility;
 - 1.7. Detention Centre Prizren- closed-type correctional facility;
 - 1.8. Detention Centre Gjilan- closed-type correctional facility;
 - 1.9. Detention Centre Peja- closed-type correctional facility;
 - 1.10. Detention Centre Mitrovica- closed-type correctional facility.

Article 253
Superseding provisions

The entry into force of the present Law shall supersede the Law on Execution of Penal Sanctions, Official Gazette of the Republic of Kosovo No. 79/2010 and Law on Organization and Business of the Economic Units within Facilities for the Execution of Penal Sanctions ("SAPK Official Gazette, No. 46/77).

Article 254
Entry into force

This law shall enter into force fifteen (15) days after its publication in the Official Gazette of Republic of Kosovo.

Law No. 04/L-149
29 July 2013

Promulgated by Decree No.DL-035-2013, dated 16.08.2013, President of the Republic of Kosovo Atifete Jahjaga.

OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 31 / 28
AUGUST 2013, PRISTINA

**LAW No. 04/L-140
ON EXTENDED POWERS FOR CONFISCATION OF ASSETS
ACQUIRED BY CRIMINAL OFFENCE**

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Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves:

**LAW ON EXTENDED POWERS FOR CONFISCATION OF ASSETS
ACQUIRED BY CRIMINAL OFFENCE**

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose**

This Law specifies extended powers for confiscation of assets acquired by the persons who have committed a criminal offence, when the procedures foreseen in the Criminal Procedure Code are not sufficient.

**Article 2
Scope**

The provisions of this Law are applicable for the assets acquired by persons who have committed a criminal offence as prescribed by the Criminal Code of the Republic of Kosovo.

**Article 3
Definitions**

1. Terms used in this Law shall have the following meaning:
 - 1.1. **Agency** - the Agency for the Management of Sequestered and Confiscated Assets;

- 1.2. **Ministry** - the Ministry of Justice;
- 1.3. **Confiscation** - the permanent forfeiture of assets, ordered by a final decision of the competent court or another competent authority in accordance with the law in force;
- 1.4. **Extended powers of confiscation** - measures to confiscate assets under the procedures set forth in this Law;
- 1.5. **Assets subject to extended powers of confiscation** - assets which are owned by a defendant or on behalf of the defendant, which are subject to an Attachment Order under Article 265 of the Amended Criminal Procedure Code of Kosovo or which are subject to Temporary Confiscation under Article 267 of the Amended Criminal Procedure Code of Kosovo;
- 1.6. **Bone fide purchaser** - a person who has purchased an asset from a defendant or convicted person after having paid a reasonable market price for that asset, taking into consideration Article 97.2 of Criminal Code of the Republic of Kosovo.

Article 4

Court decision for application of this Law

1. The state prosecutor shall request the court in a criminal proceeding to apply the extended powers of confiscation from this law only if he or she can demonstrate the conditions in Article 6, Article 7 or Article 8 of this Law.
2. The single trial judge or presiding trial judge shall determine whether the state prosecutor has proven that the conditions in Article 6, Article 7 and Article 8 of this Law are applicable.
3. The Court may apply the extended powers of confiscation only if the state prosecutor has proven the conditions in Article 6, Article 7 and Article 8 of this Law.
4. The state prosecutor's request must describe any asset subject to extended powers of confiscation with sufficient information to identify the asset clearly.

Article 5

Application of Extended Powers of Confiscation

1. Assets subject to extended powers of confiscation which are not a material benefit of the criminal offence described in the indictment may be subject to confiscation under Article 6 of this Law.
2. Assets subject to extended powers of confiscation which were acquired by a defendant who has died may be subject to confiscation under Article 7 of this Law.
3. Assets subject to extended powers of confiscation which were acquired by a defendant who has left the Republic of Kosovo may be subject to confiscation under Article 8 of this Law.
4. Provisions of this law may be applied to assets which have been transferred to another party from a person who is or becomes a defendant or convicted person. That party shall have the right to demonstrate that he or she is a bone fide purchaser of the asset. An asset may not be confiscated from a bone fide purchaser of that asset.

CHAPTER II EXTENDED POWERS OF CONFISCATION

Article 6

Conditions for confiscation of Assets Acquired from a Criminal Activity

1. Within thirty (30) days after a final judgment that a defendant is guilty of a criminal offence under Chapters XV, XXIII, XXIV, XXV or XXXIV of the Criminal Code and if the state prosecutor may, in a separate request to the single trial judge or presiding trial judge, provide evidence that demonstrates the grounded cause that:
 - 1.1. the defendant has acquired other assets that have not been material benefits of those criminal offences, for which the defendant has been convicted;
 - 1.2. those other assets were obtained after December 31, 1999;
 - 1.3. the defendant's legitimate income was insufficient to enable the purchase of those other assets;
 - 1.4. the defendant was engaged in a pattern of activity similar to that with which he or she was convicted; and
 - 1.5. the pattern of activity in sub-paragraph 1.4 of this paragraph would enable the purchase of those other assets.
2. If the request by the state prosecutor under paragraph 1 of this Article fails to establish grounded cause as to sub-paragraph 1.1, 1.2 or 1.3 of paragraph 1 of this Article, the Court shall issue a reasoned decision denying the request. Otherwise, the Court shall serve a copy of the request to the defendant.
3. The defendant shall have the right to a defense attorney during any proceedings under this Article.
4. The convicted person shall have thirty (30) days after he or she has been served with a copy of the state prosecutor's request to submit proof that the assets were purchased with legitimate income.
5. For any asset acquired by the convicted person prior to the period of time of the criminal offence for which he or she was convicted, the convicted person may submit evidence that cadastral records or other documents which might prove that the assets were purchased with legitimate income is not available or is not reliable.
6. The single trial judge or trial panel shall hold a hearing which:
 - 6.1. allows the defendant to examine the evidence in support of the state prosecutor's request under paragraph 1 of this Article;
 - 6.2. allows the state prosecutor to examine the evidence submitted by the defendant under paragraph 4 and 5 of this Article;
 - 6.3. the other party shall have the right to demonstrate that he or she is a bone fide purchaser of the asset under Article 5 paragraph 4 of this Law.
7. If the court determines that the assets were acquired due to activity similar to the criminal acts for which the defendant was convicted, it shall render a reasoned judgment which:
 - 7.1. determines that the assets were acquired within the same period of time as the criminal offences for which the defendant was convicted;
 - 7.2. determines that the defendant's legitimate income was insufficient to purchase those assets;

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- 7.3. determines that the defendant was engaged in a pattern of activity similar to that with which he or she was convicted;
 - 7.4. determines that the pattern of activity would enable the purchase of those assets;
 - 7.5. determines that the defendant had the opportunity to show that the assets were acquired due to legitimate income;
 - 7.6. determines that the defendant has not shown that the assets were acquired due to legitimate income;
 - 7.7. determines that confiscation of the asset would not cause an injustice;
 - 7.8. specifies the type of the assets and its monetary value;
 - 7.9. orders that the asset or property rights to be transferred to the ownership of the Republic of Kosovo or of the injured party, as is appropriate;
 - 7.10. obliges other parties to hand over the assets to the Republic of Kosovo or to the injured party, as is appropriate, if they have not been transferred according to sub-paragraph 7.9 of this paragraph or to pay the monetary value of the asset within fifteen (15) days from the date when the judgment became final; and
 - 7.11. orders that in public registers of the court or other body to be done the respective changes of the property right on behalf of the Republic of Kosovo or the injured party, as it is appropriate.
8. An appeal is permitted against the judgment in paragraph 7 of this Article.

Article 7

Conditions when property owned by a deceased defendant may be confiscated

1. When a criminal proceeding may not be continued due to the death of the defendant under Article 160 of the Amended Criminal Procedure Code, but assets are subject to an Attachment Order under Article 265 of the Amended Criminal Procedure Code, Temporary Confiscation under Article 267 of the Amended Criminal Procedure Code, or an indictment has been filed which lists assets subject to confiscation under Article 241, paragraph 1, sub-paragraph 9 of the Amended Criminal Procedure Code, the Court upon the proposal of the state prosecutor or the injured party may continue the confiscation proceeding under this Law if:
 - 1.1. the value of the asset subject to confiscation exceeds one thousand (1000) €; and
 - 1.2. it is in the interest of justice to continue the proceedings.
2. The court shall take a decision to continue the confiscation proceeding despite the death of the defendant and shall list the reasons why the criminal procedure against the defendant may not be initiated or continued, the value of the asset subject to confiscation and why it is in the interest of justice to continue the confiscation proceeding.
3. If an attorney has not been retained by the legal inheritors of the deceased defendant, the court shall appoint, or continue the appointment of a defense attorney to represent the interests of the deceased defendant. The attorney shall act in the best interests of the legal inheritors of the deceased defendant.
4. If an indictment has not been filed, the prosecutor shall have one hundred and

eighty (180) days from the day of court's decision under paragraph 2 of this Article to file an indictment against the deceased defendant ex relatione for the assets subject to confiscation. The indictment shall be filed in accordance with Chapter XV of the Amended Criminal Procedure Code.

5. If the indictment has been filed prior to the defendant's death, or if the indictment is filed under paragraph 3 of this Article, the court shall conduct a main trial in accordance with Chapter XIX of the Amended Criminal Procedure Code.
6. The court shall only consider those counts in the indictment which support the confiscation of the asset.
7. The court shall consider the right of the other party to demonstrate that he or she is a bone fide purchaser of the asset under Article 5 paragraph 4 of this Law.
8. If the court determines that the defendant had committed the criminal offence and the assets subject to confiscation were material benefits of this criminal offence, it shall render a judgment which:
 - 8.1. determines that the defendant has committed the criminal offence;
 - 8.2. determines that the assets were acquired with the commission of the criminal offence from sub- paragraph 8.1 of this paragraph;
 - 8.3. specify the type of the assets and its monetary value;
 - 8.4. orders that this asset or property rights to be transferred to the ownership of the Republic of Kosovo or of the injured party, as is appropriate;
 - 8.5. obliges other parties to hand over the assets to the Republic of Kosovo or to the injured party, as is appropriate, if they have not been transferred according to sub-paragraph 8.4 of this paragraph or to pay the monetary value of the asset within fifteen (15) days from the date when the judgment became final; and
 - 8.6. orders that in public registers of the court or other body to be made the respective changes of the property right on behalf of the Republic of Kosovo or the injured party, as is appropriate.
9. An appeal is permitted against the judgment in paragraph 8 of this Article.

Article 8

Conditions when property owned by a fugitive defendant may be confiscated

1. If the State Prosecutor can suspend the investigation under Article 157 of the Amended Criminal Procedure Code, but assets were attached by an Attachment Order under Article 265 of the Amended Criminal Procedure Code or were made subject to temporary confiscation under Article 267 of the Amended Criminal Procedure Code, the state prosecutor shall continue the criminal proceedings against the defendant if:
 - 1.1. the state prosecutor has grounded suspicion that the defendant is a fugitive,
 - 1.2. the value of the asset subject to confiscation exceeds five thousand (5.000) €, and
 - 1.3. it is in the interest of justice to continue the proceedings.
2. If an indictment has been filed which lists assets subject to confiscation under Article 241, paragraph 1 sub-paragraph 9 of the Amended Criminal Procedure Code and the defendant according to this indictment is a fugitive or becomes a

fugitive, the Court upon the proposal from the state prosecutor may continue the criminal procedure if:

- 2.1. the state prosecutor has grounded suspicion that the defendant is a fugitive;
 - 2.2. the value of the asset subject to confiscation is more than five thousand (5.000) €; and
 - 2.3. it is in the interest of justice to continue the proceedings.
3. The court shall take a decision to continue the criminal proceedings and shall describe the reasons for the grounded suspicion that the defendant is a fugitive, the value of the asset subject to confiscation and why it is in the interest of justice to continue the criminal proceeding.
 4. The court shall appoint or continue the appointment of a defense attorney to represent the interests of the defendant.
 5. If an indictment has not been filed, the prosecutor shall have one hundred and eighty (180) days from the day of court's decision under paragraph 3 of this Article to file an indictment against the fugitive defendant ex relatione the assets subject to confiscation. The indictment shall be filed in accordance, mutatis mutandis, with Chapter XV of the Amended Criminal Procedure Code.
 6. If the indictment has been filed under paragraph 2 of this Article, the court shall conduct a main trial in accordance with Chapter XIX of the Amended Criminal Procedure Code.
 7. The court shall only consider those counts in the indictment which support the confiscation of the asset.
 8. The court shall consider the right of the other party to demonstrate that he or she is a bone fide purchaser of the asset under Article 5 paragraph 4 of this Law.
 9. If the court determines that the defendant has committed the criminal offence and the assets subject to confiscation were material benefits of this criminal offence, it shall render a judgment which:
 - 9.1. determines that the defendant has committed the criminal offence;
 - 9.2. determines that the assets were acquired with the commission of the criminal offence from sub-paragraph 9.1 of this paragraph;
 - 9.3. specifies the type of the assets and its monetary value;
 - 9.4. orders that the asset or property rights to be transferred to the ownership of the Republic of Kosovo or of the injured party, as is appropriate;
 - 9.5. obliges other parties to hand over the assets to the Republic of Kosovo or to the injured party, as is appropriate, if they have not been transferred according to sub--paragraph 9.4 of this paragraph, or to pay the monetary value of the asset within fifteen (15) days from the date when the judgment became final; and
 - 9.6. orders that in public registers of the court or other body to be done the respective changes of the property right on behalf of the Republic of Kosovo or the injured party, as is appropriate.
 10. An appeal is permitted against the judgment in paragraph 9 of this Article.
 11. The defendant shall have the absolute right to be tried again by a different trial panel if he or she is no longer a fugitive; however, the judgment under paragraph 9 of this Article shall not be reopened once it is final. The decision in paragraph 9 of this Article shall not be admissible at the defendant's *in personam* trial.

Article 9

Use of attachment order or temporary confiscation during suspension of investigation

1. If the State Prosecutor renders a ruling to suspend the investigation under Article 157 of the Amended Criminal Procedure Code, but if during the criminal proceeding assets were attached by an Attachment Order under Article 265 of the Amended Criminal Procedure Code or were made subject to Temporary Confiscation under Article 267 of the Amended Criminal Procedure Code, the State Prosecutor shall ask the pretrial judge to continue or discontinue the Attachment Order or Temporary Confiscation. The pretrial judge shall authorize the Attachment Order or Temporary Confiscation against the defendant for six (6) months if:
 - 1.1. the prosecutor has grounded cause that the defendant committed the criminal offence and that the asset was acquired by that criminal offence;
 - 1.2. if the value of the asset subject to confiscation exceeds ten thousand (10.000) €; and
 - 1.3. if it is in the interest of justice to continue the proceedings.
2. The state prosecutor may renew his or her request to the court once again for six (6) months.
3. If the state prosecutor has not resumed the investigation by the expiration of the court's authorization under paragraph 1 or 2 of this Article, the defendant's attorney may request the pretrial judge to terminate the Attachment Order or Temporary Confiscation.

CHAPTER III

EXECUTION AND MANAGEMENT OF CONFISCATED ASSETS

Article 10

The execution of court decisions regarding the confiscated assets

Assets that have been ordered to be confiscated by a written judgment by the court under Article 370 of the Amended Criminal Procedure Code or by a court decision under Article 6, 7 or 8 of this Law, shall be executed in accordance with Chapter XXVIII of the Amended Criminal Procedure Code.

Article 11

Procedural costs

1. The procedural costs include the expenditures for the sequestration, confiscation, management, fee for the defense attorney and any other justified expenditure.
2. The expenditures for the sequestration, in accordance with this Law, are prepaid by the Government and are paid by the person against whom the sequestration of the assets has been ordered.
3. The court, with its final decision on the request for confiscation shall specify the obligation for payment of the expenditures prepaid by the Government.

Criminal laws

4. The expenditures prepaid by the Government shall not be paid by the person from paragraph 2 of this Article, if the court imposes the confiscation measure.
5. The court which rendered the ruling shall decide on the appeals for the procedural costs.

CHAPTER IV TRANSITIONAL PROVISIONS

Article 12 Sub-legal acts

Sub-legal acts for the implementation of this Law shall be approved within six (6) months from the entry in force of this Law.

Article 13

Repeal of the provisions

With the entry in force of this Law, provisions which contradict this Law shall be repealed.

Article 14 Entry into Force

This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of Republic of Kosovo.

**Law No. 04/L-140
11 February 2013**

Promulgated by Decree No.DL-002-2013, dated 26.02.2013, President of the Republic of Kosovo Atifete Jahjaga.

**OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 5 / 8 MARCH
2013, PRISTINA**

**LAW No. 04/L-043
ON PROTECTION OF INFORMANTS**

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo;

Approves:

LAW ON PROTECTION OF INFORMANTS

**Article 1
Scope of Law and Purpose**

The purpose of this law is creation of the legal basis for encouragement of the officials to present the unlawful actions.

**Article 2
Definitions**

1. Terms used in this law shall have the following meaning:
 - 1.1. **Whistle blower** - any person, who, as a citizen or an employee reports in good faith the respective authority within public institution at central or local level, institutions, public enterprises or private for any reasonable doubts about any unlawful actions;
 - 1.2. **Public institutions at central and local level** - are:
 - 1.2.1. Highest institutions of the Republic of Kosovo (Assembly of Kosovo, President of Kosovo and Constitutional Court of Kosovo);
 - 1.2.2. Judicial and prosecutorial authorities (Kosovo Judicial Council, Kosovo Prosecutorial Council, Courts, Prosecutions);
 - 1.2.3. Highest state administration authorities (Government as a whole, Prime Minister, Deputy Prime Ministers and Ministers);
 - 1.2.4. Highest state administration bodies (Office of Prime Minister and the Ministries);
 - 1.2.5. Central state administrative bodies (subordinate bodies of the state administration performing non-ministerial tasks or other administrative tasks);
 - 1.2.6. Local state administration bodies (municipal bodies of the state administration);
 - 1.2.7. Independent state administration bodies (legal entities established to perform activities of state administration which require in the public interest a high degree of independence);

- 1.2.8. Independent institutions provided for in Chapter XII of the Constitution of Republic of Kosovo and
- 1.2.9. Other public institutions established by law;
- 1.3. **Institution** - a public institution or private educational institution, health institution etc, established by law;
- 1.4. **Public and private enterprises** - the public and private enterprises established according to the Law on Business Associations and the Law on Business Organizations;
- 1.5. **Official Person dealing with reported wrongdoings** - a person, who may be authorized with a special employer's decision, within the public institution at a central and local level, institution, public enterprise or private, to act upon whistle blowers' information.
- 1.6. **Unlawful action** - any action or inaction of a person by which are violated the legal provisions in force, presented in a form of a criminal offence or violence.
- 1.7. **Information in the public interest** - any information concerning violation of the laws, rules of professional ethics and principles of good administration provided in good faith in order to preserve the interest of the state or general public interest.

Article 3 **Basic Principles**

1. The rights of the whistle bower who reports/discloses in good faith unlawful actions of officials or responsible persons within public institutions at central or local level or within institutions, public or private enterprises are guaranteed.
2. Whistle bower disclosing unlawful actions should act in good faith and should reasonably believe that the facts and information given in the disclosure are true.
3. Whistle bower who discloses unlawful actions in good faith shall not be subject of punitive or disciplinary measures, dismissal or suspension from work and shall not be exposed to any form of discrimination.
4. Whistle bower employee who was subject to discriminatory measures, including dismissal from work, is entitled to address the competent court, which, if proven that the whistle bower employee has been dismissed because of the disclosure of information, shall reinstate him/her and shall order the public institution at central or local level, institution, public or private enterprise to provide him with a compensation for the suffered damage.
5. Whistle bower's anonymity is guaranteed.
6. If in case of disclosure of information about the commission of serious criminal offence, there is a potential risk for the security and integrity of the whistle bower and his/her close family members and to a larger scale to his/her property, whistle bower's protection is to be provided in accordance with the Special Law for Protection of Witnesses through the methods stipulated by this law.
7. While observing the principles of legality and good administration public institutions shall carry out the necessary checks pertaining to whistle blowers' disclosure of information about the commission of unlawful actions.

8. Regardless of the form and content of the whistle blowers' disclosure of unlawful action it shall be considered as an official complaint. Response to the whistle blower's disclosure shall be prepared by applying accordingly the procedures pertaining to the responses given to the parties, who file official submissions/complaints to public administration bodies.

Article 4

Responsibilities of public institutions at central and local level, institutions, public or private enterprises

1. Public institutions at central or local level, institutions, public or private enterprises are responsible to:
 - 1.1. create conditions for an independent and unhindered work of the person who reported potential unlawful actions;
 - 1.2. create provisions pertaining to the protection of integrity, the rights and interests of whistle blowers who are reporting unlawful actions;
 - 1.3. receive reports/disclosures about potential unlawful actions and implement the procedure in accordance with this Law;
 - 1.4. preserve material and personal evidences by which is proved the unlawful action.

Article 5

Disclosure and decision upon unlawful action

1. Whistle blowers who doubt for unlawful actions should report the information.
2. Employer or one of the supervisors, should, towards the whistle blower who has reported the unlawful actions, ensure his/her protection anonymity, integrity, from any other form of mistreatment.
3. Protection provided for by paragraph 2 of this Article is excluded when whistle blower in bad faith and willingly reports /discloses untrue information.

Article 6

Delivery of information

1. Whistle blower shall submit information about the unlawful actions to the official person dealing with reported wrongdoings or to any other supervisor.
2. Information must be understandable and should contain personal data of the person against whom the report is filed and the evidences they possess.
3. Unlawful actions may be reported/disclosed in the following ways:
 - 3.1. in writing;
 - 3.2. through postal services or through the e-mail; and
 - 3.3. orally.
4. When the report/disclosure is presented orally, the official person compiles the report/disclosure and the same one shall be signed by the whistle blower and the official.

Article 7
Admission and Registration of Reports on Unlawful Actions

1. Each supervisor or official shall record the admitted report/disclosure of unlawful actions. The recording should contain the following:
 - 1.1. admission date;
 - 1.2. name and last name;
 - 1.3. the address;
 - 1.4. institution of the reporting person; and
 - 1.5. a short summary of the report/disclosure;

Article 8
Verification and processing of reports/disclosures

After receiving a report/disclosure for unlawful actions, supervisor or the official person notifies the respective institution to deal with the issue in compliance with the laws in force.

Article 9
Reporting unlawful actions

1. Official person or supervisor, on wrongdoings, is obliged to inform in writing the whistle blower on procedures that were taken regarding the report.
2. Official person or supervisor shall inform the manager of the institutions about the results of the implemented procedures and about all conclusions.

Article 10
Document Archiving

The head of the institution takes measures for archiving all reports/disclosures of the wrongdoings in the institution headed by him/her. The materials will be stored for at least five (5) years.

Article 11
Entry into force

This law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-043
31 August 2011

Promulgated by Decree No.DL-031-2011, dated 31.08.2011, President of the Republic of Kosovo Atifete Jahjaga.

**OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 14 / 9
SEPTEMBER 2011, PRISTINA**

**LAW No. 04/L-015
ON WITNESS PROTECTION**

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Assembly of Republic of Kosovo;

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON WITNESS PROTECTION

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose of the Law**

This Law regulates special and extraordinary measures, ways and procedures for witness protection and cooperators of justice.

**Article 2
Scope of the Law**

This Law shall provide protection for witnesses and cooperators of justice only for the types of criminal offences foreseen in paragraph 1 of Article 4 of this Law.

**Article 3
Definitions**

1. Terms used in this Law shall have the following meaning:
 - 1.1. **Close person-** a family member as provided for in Criminal Procedure Code.

- 1.2. **Serious threat** - a warranted fear of danger to life, physical or mental health.
- 1.3. **Protected person** - the person to whom the protection measures are applied and who in the position of witness or damaged party, shall notify or witness on the facts and circumstances, that comprise an object of relevant proof in an criminal procedure, for criminal offences foreseen in paragraph 1 of Article 4 of this Law and due to these notifications or proofs, is in a serious risk situation, and the person, who expiates the criminal sentence or is accused in criminal procedure, towards whom the special protection measures shall be applied, because of cooperation, notification and declarations made in criminal procedure, for criminal offences foreseen in paragraph 1 of Article 4 of this Law and that for these reasons, is in a serious threat situation..
- 1.4. **Program**- the Witness Protection Program as foreseen under this Law.
- 1.5. **Committee**- the Witness Protection Committee, as foreseen under this Law.
- 1.6. **Directorate**- the Witness Protection Directorate within Kosovo Police, established by this Law.
- 1.7. **Official Secret** - has the same meaning as in the Criminal Code of Kosovo;

Article 4

Grounds for application of protection measures

1. Protection measures may be implemented before, during and after criminal proceeding for the endangered person with regard to the investigations for criminal offences as follows:
 - 1.1. criminal offence against Kosovo, its citizens and residents;
 - 1.2. criminal offence against international law;
 - 1.3. criminal offence against the economy;
 - 1.4. criminal offence against the official position;
 - 1.5. criminal offence which, as foreseen by the Law, is punishable by imprisonment of five (5) or more years.
2. Protection measures may be applied towards the person related to criminal offences provided for in paragraph 1 of this Article if:
 - 2.1. there is a serious threat to that person and his close persons;
 - 2.2. that person accepts to cooperate closely with the courts or investigatory authorities.

CHAPTER II

PROTECTION MEASURES

Article 5

Types of Protection Measures

1. Protection measure is applied to ensure the protection for the protected person from serious threat against his life, physical or mental health or to close persons defined in this Law.

2. Protection measures are as follows:
 - 2.1. physical protection of the protected person;
 - 2.2. temporary relocation of protected person to a secure place;
 - 2.3. special procedures for access to data and documents related to protected persons from offices for issuing the documents and other formal information databases;
 - 2.4. change of the protected person's place of residence, work or study;
 - 2.5. change of identity of the protected person;
 - 2.6. change of the protected person appearance, including plastic surgery;
 - 2.7. financial support for the protected person;
 - 2.8. social, legal and other necessary assistance for the protected person; and
 - 2.9. special regime for the protected person in custody, in correctional institutions.
3. Directorate makes a proposal for applying one or more protection measures, taking into account specific circumstances and the opinion of the endangered person. Protection measures can be implemented only with the consent of the endangered person. Application of protection measures which are not accepted by the protected person is prohibited, except the case foreseen with paragraph 4 of this Article.
4. If there is a ground according to which protection measure can be applied but endangered person is not able give his consent due to his physical or mental condition, protection measures shall be ordered and implemented until the change of circumstances when the protected person will be able to give his consent to be protected, with the exception of the measure foreseen in sub-paragraph 2.6 of paragraph 2 of this Article. If protected person refuses to give consent, the applied protection measures shall be terminated.
5. The measures undertaken on the basis of the present Law shall not be applied against the minors, who are at risk, without prior approval of their parents or guardians. For persons partially or fully deprived from liability, approval shall be given by the legally authorized person for their representation or guardianship.

Article 6

Physical protection of the protected person

1. Physical protection of protected person shall be performed in open or secret manner, and it shall be executed twenty-four (24) hours per day or for specific periods of time only inside the territory of the Republic of Kosovo.
2. During implementation of the physical protection of the protected person special physical security measures are used.

Article 7

Temporary relocation of protected person to a secure place

1. Protected person may be temporary relocated to a secure place.
2. During the temporary relocation of the protected person to a secure place, special physical and technical security measures may be used.

Article 8
Special procedures for obtaining data

1. The Committee may prohibit or restrict the release of information in relation to the protected person to the offices for the issuance of documents and to other managers of the personal databases. These data may be removed from the office for the issuance of documents or the managers of the information databases and shall be forwarded to the Directorate.
2. Data on the protected person shall be released only by the decision of the Committee for assessment of the program.

Article 9
Change of the protected person's place of residence, work or education

1. The protected person can be temporarily or permanently relocated from his residence, place of work or education. Relocation shall be organized by the Directorate.
2. Relocation of protected person will be performed within the territory of Republic of Kosovo or outside Kosovo on the basis of international agreements or on the basis of reciprocity.

Article 10
Change of the identity of protected person

1. The changing of the identity of a person is the complete or partial change of personal data of protected person and may be temporary or permanent.
2. Personal data entered into new documents or databases can not be the same with data of another person alive or dead.
3. The decision on the change of the identity of the protected person shall be taken by the Committee.
4. Change of identity of the protected person shall not influence on the status, rights and other obligations of protected person.
5. Change of identity of the protected person shall be implemented only when the protected person fulfils obligations towards third party.
6. Documents and original data on the authentic identity of the protected person shall be kept in the Directorate.
7. If, after the change of identity of protected person, the Directorate receives a request that protected person shall fulfill an obligation before the protected person obtained authentic identity, witness protection Directorate will request from protected person to fulfill an obligation with the help of witness protection Directorate.

Article 11
Change of the protected person's appearance including plastic surgery

1. Minor or visible changes to physical appearance of the protected person through

plastic surgery may be implemented in exceptional cases when other protection measures are not sufficient to protect the protected person.

2. Changes indicated in paragraph 1 of this Article should be limited as much as possible in order to provide sufficient protection for the protected person.

Article 12

Financial support for the protected person

Financial support for the protected person can be provided when protected person has no sufficient financial sources to ensure a minimum living standard while being protected, as determined by the Committee for each case separately. Financial support for the protected person shall be provided for the shortest possible time period up to twelve (12) months. In the cases when Committee assesses that continuation of this protection measure is necessary a new decision shall be taken.

Article 13

Support for the protected person

Social, legal support and any other kind of support necessary for protected person shall be offered in order to guarantee his security and his or her welfare as well as minimum living standard, as determined by the Committee for each case separately.

Article 14

Special regime for protected persons in Correctional Institutions

1. For the purpose of securing life and health of a cooperative witness while he or she is deprived of his or her liberty, special treatment and protection measures shall apply for protection of witness that may result in different treatment but not significantly enhanced than other prisoners.
2. This special regime includes special treatment that may result in different treatment but not significantly enhanced than other prisoners, for cooperative witness and use of specific areas during the time while he or she is deprived of his or her liberty.

CHAPTER III

COMMITTEE FOR WITNESS PROTECTION

Article 15

Committee for witness protection and its members

1. The Committee for witness protection shall be established with this Law.
2. The Committee is composed of three (3) members: Chief State Prosecutor of Republic of Kosovo, head of investigation unit of Kosovo Police and the director of the Witness Protection Directorate.
3. Each member of the Committee has its deputy who replaces him in necessary cases.

Criminal laws

4. The chairperson of the Committee is the Chief State Prosecutor. In case of his absence his deputy conducts the work of the Committee for assessment of the program.
5. The committee shall take decisions only when all its members are present. The decisions are taken by majority votes of the members of the Committee.

Article 16
Committee's functions

1. The Committee is responsible for the decision:
 - 1.1. of inclusion of the endangered person into the program;
 - 1.2. on extension of stay in program;
 - 1.3. on termination of program.
2. The work and all documents of the Committee shall be considered as official secret.
3. The Committee shall draft own internal procedural rules on its function.

CHAPTER IV
WITNESS PROTECTION DIRECTORATE

Article 17
Competences of Witness Protection Directorate

1. Witness Protection Directorate is a specialized organization unit in a direct dependence of General Director of Kosovo Police the mission of which is the implementation of witness protection measures.
2. Directorate has following responsibilities:
 - 2.1. to provide a legal opinion and assessments required by the Committee.
 - 2.2. to implement the Program;
 - 2.3. to implement urgent measures;
 - 2.4. to reach and implement the protection agreement with persons included in the Program;
 - 2.5. to keep the original documents and data of protected person;
 - 2.6. to provide administrative support required by the Committee;
 - 2.7. to cooperate with competent authorities for witness protection in foreign states;
 - 2.8. to manage financial means allocated for implementation of the Program;
 - 2.9. continuous development, education and training for officials within the Directorate;
 - 2.10. to draft standard operational procedures for administering Directorate functions.
3. The Directorate has the special financial fund, which is managed by the director of Witness Protection Directorate, according to the special instruction approved by the minister of Internal Affairs and minister of Finance.
4. While performing its functions the Directorate may conceal the identity of its officials as well as the ownership of the items used in the implementation of its tasks.

Article 18
Documents and data kept in the Directorate

1. Directorate shall keep the data as follows:
 - 1.1. requests for permission of inclusion into the Program;
 - 1.2. all completed questionnaires;
 - 1.3. information related to implementation of urgent measures;
 - 1.4. Committee's decisions related to permission for inclusion into the Program, type and duration of protection measures;
 - 1.5. decisions for duration and termination of the permission for inclusion into the Program;
 - 1.6. personal data of the protected person, temporary or permanent residence and all other data that have been manifested during the implementation of protection measure in accordance to this Law;
 - 1.7. reaching the protection agreement;
 - 1.8. information related to the protected person within the program based on international cooperation;
 - 1.9. information related to the persons who have been granted the access on data and information.

Article 19
Cooperation and support from government and other organizations for Witness Protection Directorate

Government authorities, organizations and other institutions are obliged to offer secure and confidential support in the manner required from the Directorate.

CHAPTER V
APPLICATION OF THE PROGRAM

Article 20
Proposal and request for inclusion into the Program

1. Written request for inclusion into the program shall be submitted to the Chief State Prosecutor. The request can be submitted by the following persons:
 - 1.1. competent state prosecutor;
 - 1.2. judge dealing with the case, or
 - 1.3. person at serious threat.
2. Written request for inclusion into the program contains the following information:
 - 2.1. data of the person proposed for inclusion into the program shall contain: name, father's name, surname, maiden name if another surname, personal number, residence, date and place of birth, marital status, profession, ownership status, as well as all information related to criminal records;
 - 2.2. description of the criminal offence and assessment of existing evidences;
 - 2.3. the importance and evaluation of any source for the testimony or the information given by the person proposed for inclusion into the program and relation of such testimony with a specific case in criminal procedure;

- 2.4. description and threat assessment of the person proposed for inclusion in the program or his close person;
- 2.5. requests for urgent measures, if necessary, as well as
- 2.6. other necessary information.
3. When the written request for inclusion in the program is submitted by endangered person, he is not obliged to provide information provided for in paragraph 2 of this Article, but the Chief State Prosecutor will request from the prosecutor or competent judge according to the phase of the proceeding to provide the information provided for in paragraph 2 of this Article.
4. Chief State Prosecutor After within twenty-four (24) hours after receiving the request shall process all information to the Directorate to enable the preparation of opinion and assessing the level of threat of the proposed person for inclusion into the program or his close person and their suitability for inclusion into the program also to undertake urgent measures if necessary.
5. When a request is received by an endangered person in compliance with paragraph 3 of this Article, Chief State Prosecutor will undertake the immediate actions within twenty-four (24) hours regarding the request. When it is ensured that all relevant information is available, the Chief State Prosecutor will forward to the Directorate all information received within twenty-four (24) hours.
6. The Directorate prepares and submits its initial opinion to the Chief State Prosecutor within thirty (30) days, starting from the day when the information was received.

Article 21 Proposal for inclusion

1. Chief State Prosecutor shall within three (3) days from the day of receiving the initial opinion and assessment of the Directorate according to Article 20 paragraph 4 of this Law:
 - 1.1. submit written proposal to the Committee for inclusion in the program; and
 - 1.2. organize a meeting with the Committee.
2. Written proposal for inclusion in the program contains:
 - 2.1. specified information in Article 20, paragraph 2 of this Law, and
 - 2.2. initial opinion from the Directorate that contains description and threat assessment for the proposed person for inclusion into the program, proposal for the protection measures, its duration as well as the results of medical and psychological assessments, estimation of expenses for implementation of protection measures and a copy of a completed questionnaire.

Article 22 Conditions for inclusion in the program

1. When deciding regarding the proposal for inclusion in the program, Committee shall take into consideration following criteria:
 - 1.1. the importance of the information which is acceptable as testimony in the main trial that can not be provided from any alternative source. Request for

the inclusion in the program should contain information that the proposed person for inclusion in the program regarding criminal offence, perpetrators and other important data and information which are necessary and substantial for the prosecution of the criminal offence;

- 1.2. seriousness of the threat;
- 1.3. willingness of the proposed person for inclusion into the program to cooperate with courts or investigatory authorities while implementing the program.
- 1.4. suitability of the proposed person for inclusion in the program to act in accordance with the program and creating a belief that the witness relocation will not cause any danger to life or health of others.

Article 23

Decision on the proposal for program application

1. Committee shall decide in relation to inclusion into the program within fifteen (15) days after receiving the written proposal.
2. The Committee may request from the prosecutor or the judge, depending from the stage of proceedings, additional data and information related to the proposal for inclusion in the program.
3. Before making a decision regarding the proposal for inclusion of the person into the program, evaluative Committee shall request a written consent from the person, except the case foreseen in paragraph 4 of Article 5 of this Law.
4. If the Committee makes a positive decision related to inclusion of the person into the program, the Directorate shall conclude a written agreement for protection of endangered person.

Article 24

Urgent measures

1. In specific and urgent cases, after the request of competent prosecutor and judge of criminal case, within twenty-four (24) hours the director of Directorate can take a decision for implementing the program of urgent protection measures. For implementing the urgent measures, there should be contracted a temporary protection agreement between the protected person, except the case foreseen in paragraph 4 of Article 5 of this Law.
2. Committee should decide within thirty (30) days from the day of beginning of implementation of program of urgent protection measures for including the protected person in the Witness Protection Program.
3. Urgent measures continue till the decision of the Committee for witness protection.
4. Urgent measures can be implemented only after written consent from the endangered person, except the case foreseen in paragraph 4 of Article 5 of this Law.
5. Only protection measures indicated in Article 5 paragraph 2 sub-paragraphs 2.1, 2.2, 2.3, and 2.9 of this Law can be implemented as urgent measures.
6. After taking the decision for implementing urgent measures, the Director of

Directorate requests the consent from the person to whom the urgent measures apply to undergo a medical and psychological assessment and fill in the questionnaire with personal data, property, criminal records, obligations and other information. The form and content of the questionnaire shall be determined by the Director of Directorate.

Article 25 **Extension of the program**

1. The Directorate can present the proposal for extension of the program. The written proposal shall be submitted to the Committee not later than thirty (30) days before the expiration of the program. Exceptionally in specific cases the proposal can be done after expiration of the program.
2. Extension of the program may be approved only after the written consent of the protected person.

Article 26 **Agreement for Protection**

1. After the decision for inclusion into the program of the endangered person, written consent and completed questionnaire of the person included into the program will be protected and archived by the witness protection Directorate. After concluding a special agreement between witness protection Directorate and any person at risk, such person shall be considered as protected person.
2. The protection agreement shall contain:
 - 2.1. general information;
 - 2.2. obligations of the protected person included into the program as follows:
 - 2.2.1. to give testimony in accordance with the provisions of Criminal Procedure Code, to answer questions clearly, sincerely, fully and precisely providing factual statements, that serve for the development of criminal proceeding, to investigation bodies and court;
 - 2.2.2. to follow all instructions and data given by witness protection Directorate and actively participate in the implementation of the program.
 - 2.2.3. to not commit any criminal offence;
 - 2.2.4. to achieve agreement on surveillance and tapping of communication means, recording and secret surveillance of premises in which he or she resides without special court decision, and to provide the protected person's consent on restrictions of some personal rights and freedoms with the purpose of protection after the approval from the Directorate;
 - 2.2.5. phone calls and other electronic communication only upon approval of witness protection Directorate;
 - 2.2.6. to undertake all necessary actions achieving economical independence until expiration of protection agreement;

- 2.2.7. to agree to all actions which are not harmful to his health;
- 2.2.8. to report all his accounts or legal transactions financial and other liabilities;
- 2.2.9. to inform without delay the directorate about all circumstances which may influence the implementation of the program;
- 2.2.10. not to give interviews to media or to allow to be photographed;
- 2.2.11. not to write books or reports on witness protection or on his case or not to provide any other information that the Directorate considers important for ensuring the safety of the protected person;
- 2.3. obligations towards the person included in the program are:
 - 2.3.1. to implement only necessary restriction measures of his rights of movement during the implementation of the program;
 - 2.3.2. to provide protected person with necessary psychological, social and legal assistance during the implementation of program;
 - 2.3.3. to provide him with necessary economical support including medical support for a certain period;
- 2.4. duration of the program and the conditions of termination of the program;
- 2.5. a clause saying that the protection agreement is made in a single copy and it shall be kept in the witness protection Directorate;
- 2.6. the obligations deriving from the agreement for protection cannot be subject to civil or penal contest, or any other judicial conflict whatsoever. All actions undertaken by the officials of Department and Committee during the exercise of official duties can not be the ground for the charge and are not a subject to legal liability;
- 2.7. a statement that the protected person understands and agrees with the content of the protection agreement;
- 2.8. a statement that the questionnaire filled by protected person is an integral part of protection agreement;
- 2.9. other information necessary for implementation of the protection agreement;
- 2.10. date and signatures of parties.
3. Each person included into the protection program shall sign a separate protection agreement.
4. The agreement for protection of minors or persons with limited abilities shall be signed by the parent, legal representative, or the guardian in case they are not able to do so.
5. In case of the protected person who is involved in the program during this period of time causes any damage to another person, then the injured party has the right to request the compensation for damage.
6. Persons involved in the program have a right to maintain contacts and visits with their children and other relatives who are not involved in program, with the condition that is not coming to the risk of the program. The Committee decides regarding allowance or non- allowance in the specific cases.

**CHAPTER VI
TERMINATION OF THE PROGRAM**

**Article 27
Termination of the Program**

1. The program may be terminated under following conditions:
 - 1.1. when the protection agreement expires;
 - 1.2. the protected person or his legal representative refuses to be protected;
 - 1.3. when the protected person breaches seriously the protection agreement which can lead to serious threat, protection agreement shall cease upon the notification in writing by the Directorate after taking the consent from the Committee;
 - 1.4. in case of death of protected person;
 - 1.5. if the protected person, without a sound reason, declines to accept the employment offered by Directorate, or if he or she does not perform any activity for earning income;
 - 1.6. when the foreign state in territory of which the protected person is relocated requests the termination of protection agreement.
2. The program may be terminated with a decision from the Committee or at the proposal of the director of the Directorate.
3. The conditions and procedure for termination of the Programme shall be regulated with the Standard Operation Procedures of the Directorate

**CHAPTER VII
INTERNATIONAL COOPERATION AND FUNDING**

**Article 28
Basis for international cooperation**

1. International cooperation for the implementation of the program shall be approved on the basis of international agreements, bilateral and multilateral agreements, on the basis of reciprocity after the approval from the committee in the other individual cases also.
2. When requesting relocation of the person the police witness protection Directorate shall submit a request to competent authority in another state responsible for implementing protection measures according to this Law. The competent authorities should make maximum efforts to maintain the identity of protected witness.
3. When receiving the request for accepting a protected person from another state, witness protection Directorate evaluates the request and in case of a positive assessment shall propose to the Committee to approve protection measures in the territory of Kosovo, in accordance with this Law.

Article 29
Funding

1. The funding for implementation of this Law shall be provided from the Budget of Republic of Kosovo.
2. The funding provided for in paragraph 1 of this Article, may be financed from international resources and programs.

CHAPTER VIII
PROTECTION OF DATA AND RECORDS

Article 30
Main provisions for protection of data and records

1. The Committee, Directorate, governmental authorities, organizations, services as well as persons shall treat all documents and data regarding the implementation of the witness protection program as official secret.
2. The Committee may disclose an official secret document pertaining program for protection of witnesses, with the request of prosecutor or court, or for reasons related to national security.
3. Data on the change of identity of protected person as well as protected person's documents with the original identity shall be kept within the directorate and marked as official secret. Access to such data and documents shall be approved and supervised by the director of the directorate.
4. Disclosure of official secret, which is in contradiction with the provisions of this Law, comprises a criminal act in compliance with provisions of Criminal Code of Kosovo.

Article 31
Punitive provisions

Anybody who cheats or puts into error the Committee and the Directorate through presenting the false proofs and facts in order to acquire a protection measure according to the provisions of this Law shall be condemned in compliance with the provisions of Criminal Code of Kosovo.

CHAPTER IX
FINAL AND TRANSITIONAL PROVISIONS

Article 32
Transitional Provisions

1. From the coming into force of this Law until the expiration of the mandate of the EULEX Mission in Kosovo, the Committee and the local Directorate have responsibility for witness protection in accordance with this Law except where a

- request for inclusion in a EULEX witness protection programme has been made and accepted under paragraphs 5 and 6 of this Article.
2. EULEX Witness Security Unit shall provide technical assistance to the Directorate to develop its capacity in line with international recognized standards and European best practices, which shall include but shall not be limited to:
 - 2.1. training of staff at the Directorate;
 - 2.2. assistance in developing the organizational structure of the Directorate;
 - 2.3. assistance in developing Standard Operation Procedures (“SOPs”), drafting internal rules and regulations and all other documentation necessary for the effective functioning of the Directorate;
 - 2.4. assistance in the design and implementation of witness protection programmes;
 - 2.5. assistance in specific cases;
 - 2.6. assistance in establishing contacts and signing cooperation agreements with witness protection units in other countries.
 3. The details of the technical assistance, provided for in paragraph 2 of this Article, shall be regulated by a technical arrangement.
 4. During the transitional period, the EULEX Witness Security Unit and the EULEX Security Review Group shall function independently and separately from the Directorate within the Kosovo Police and shall function according to their own procedures and management structure.
 5. During the transitional period, a request for inclusion in the EULEX witness security programme shall be made to the EULEX Witness Security Unit. A request in writing may be submitted by:
 - 5.1. Chief State Prosecutor;
 - 5.2. EULEX police;
 - 5.3. EULEX Prosecutor assigned to the criminal proceedings.
 6. A request for inclusion in the EULEX witness security programme shall be considered and decided upon by the EULEX Witness Security Review Group.
 7. The EULEX Witness Security Unit shall decide on the specific witness protection measures and shall implement the program of protection after the decision of the EULEX Witness Security Review Group for inclusion in the EULEX Witness Security Program.
 8. The Kosovo Witness Protection Directorate and the Government authorities, organizations and other public institutions shall provide support to EULEX Witness Security Unit as requested by the EULEX Witness Security Unit.

Article 33 **Implementation of the Law**

1. Ministry of Internal Affairs within six (6) months after the entry into force of this Law, shall issue sub-legal acts for the implementation of this law.
2. Witness Protection Directorate and the Committee for Witness Protection, provided for in this law, shall be established within one (1) year after the entry into force of the Law.

Article 34
Entry into force

This Law shall enter into force one (1) year after its publication in the Official Gazette of Republic of Kosovo.

Law No. 04/L-015
29 July 2011

Promulgated by Decree No.DL-020-2011, dated 12.08.2011, President of the Republic of Kosovo Atifete Jahjaga.

OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 13 / 1
SEPTEMBER 2011, PRISTINA

LAW No. 03/L-166
ON PREVENTION AND FIGHT OF THE CYBER CRIME

Assembly of Republic of Kosovo,

Based on Article 65 (1) of Constitution of the Republic of Kosovo;

Approves

LAW ON PREVENTION AND FIGHT OF THE CYBER CRIME

Article 1
Objective

This law aims to prevent and combat the cyber crime with concrete measures, prevent, discover and sanction violations through computer systems, by providing observance of the human rights and safeguard of the personal information.

Article 2
Scope

This law applies to the territory of the Republic of Kosovo in the activities of computer systems. It is fully applicable to the preservation of data in computer systems as well as sanctions methods and procedures on how and by whom these data may be used.

Article 3
Definitions

1. Terms used in this law have the following meaning:
 - 1.1. **Cyber crime** - a criminal activity carried out in a network that has as objective or as a way of carrying out the crime, misuse of computer systems and computer data.
 - 1.2. **Computer system** - any device or device assembly interconnected or under an operative linkage, of which, one or more provide automatic data that are processed through computer programs;
 - 1.3. **Automatic data processing** - a process by which the data are processed to the computer system through computer programs;
 - 1.4. **Computer program** - a group of instructions that may be implemented through a computer system in order to achieve certain results;
 - 1.5. **Computer data** - any representation of facts, information or concepts in such a form that could be processed by means of computer systems. This

category involves any computer program that may initiate computer systems to perform certain functions;

- 1.6. **Service provider** - any natural or legal person that provides an opportunity to users to communicate by computer system, and the person processing or collecting data for these providers of services and for users of services provided by them;
- 1.7. **Data on the traffic** - computer data concerning the *communication* that through a computer system and its output, representing part of the communication chain, indicating the origin of the communication, destination, line, time, date, size, volume and time duration as well as type of service used for communication;
- 1.8. **Data on users** - any information that may lead to identification of the user, including type of communication and service used, address of the post office, geographic address, IP address, telephone number or any other number of access and means of payment for pertinent services as well as any other information that may lead to identification of the user;
- 1.9. **Security measures** - refer to utilization of certain procedures, means or specialized computer program by means of which access to the computer system is limited or forbidden to a given category of users;
- 1.10. **Pornographic materials of minors** - refer to any material that presents a minor or an adult shown as minor of an explicit sexual behaviour or images which, although it does not present a real person, simulates, in such credible way a minor with explicit sexual behaviour.
- 1.11. **Interception** - obtaining, illegal seizure of the data from unauthorized persons.

Article 4 **Unauthorized actions**

1. Pursuant to this Law, a person acts are considered unauthorized actions, if the person:
 - 1.1. is not authorized according the law or the contract;
 - 1.2. exceeds limits of authorization;
 - 1.3. has no permission from a competent and qualified person, according to law, to use, administer or inspect a computer system or to carry out scientific researches in a computer system;

Article 5 **Prevention, security and information campaigns**

1. In order to ensure security for computer systems and protection of personal information, public authorities and institutions with competencies in this field, service providers, non-governmental organizations and representatives of civil society conduct activities and programs for prevention of the cyber crime.
2. Public authorities and institutions with competencies in this field in cooperation with service providers, non-governmental organizations and other representatives

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of civil society shall develop policies, practices, measures, procedures and minimum standards for security of computer systems.

3. Public authorities and institutions with competencies in this field in cooperation with service providers, non-governmental organizations and other representatives of civil society shall organize information campaigns on cyber crime and risks for the users of computer systems.

Article 6

Maintenance, supplementation and utilization of database

1. The Ministry of Justice in cooperation with the Ministry of Internal Affairs shall maintain and supplement continuously the database on cyber crime.
2. Ministry of Transport and Post-Telecommunications, Kosovo Intelligence Service and other relevant institutions can be users of the database in accordance with the rules and procedures of the database holder.
3. National Crime Institution shall carry out periodical studies in order to identify reasons and conditions that determine and favour the cyber crime.

Article 7

Special trainings and programs

The Ministry of Justice, Ministry of Internal Affairs, Ministry of Transport and Communications, Ministry of Public Services, Kosovo Intelligence Services shall develop special training programs to personnel for the purpose of preventing and fighting the cyber crime in accordance with the competencies they execute.

Article 8

Owner and administrator's obligations

1. For a category of computer systems, to which access is restricted or completely forbidden, the owners, administrators of this computer system are obliged to fix it by warning clearly and automatically the user: with information, as well as conditions of use, or forbiddance to use these computer system and legal consequences for unauthorized access to these computer systems.
2. Disobeying this obligation as determined under paragraph 1 of this Article, is violation and the perpetrator is fined in an amount from five hundred (500) € to five thousand (5000) €.

Article 9

Penal acts against confidentiality, integrity and availability of the computer systems data

1. Illegal access into computer systems is a penal act and its perpetrator shall be liable to imprisonment from six (6) months to three (3) years.
2. In case a penal act from paragraph 1 of this Article is committed for the purpose of obtaining computer data its perpetrator shall be liable to imprisonment from six (6) months to four (4) years.

3. In case a penal act from paragraph 1 and 2 of this Article is committed by breaching of security measures of computer systems, its perpetrator shall be liable to imprisonment from three (3) to five (5) years.

Article 10 **Unauthorized interception**

1. Unauthorized interception of non-public broadcasting of computer information, from, for, to, or within a computer system is a penal act and its perpetrator is liable to imprisonment from six (6) up to three (3) years. If it is committed by a member of a criminal organisation it is liable to imprisonment from one (1) up to five (5) years.
2. Unauthorized interception of electromagnetic emissions from computer systems containing non-public computer data, is a penal act and its perpetrator is liable to imprisonment from one (1) to five (5) years.

Article 11 **Unauthorized transfer**

1. Modification, deletion, erasure of the computer data or their limitation without authorization is a penal act and its perpetrator is liable to imprisonment from one (1) to three (3) years.
2. Unauthorized data transfer from computer systems is penal act and its perpetrator is liable to imprisonment from three (3) to five (5) years.
3. Unauthorized data transfer from their database through computer systems, is penal act and its perpetrator is liable to imprisonment from three (3) to five (5) years.

Article 12 **Hindrance of computer systems operation**

Serious hindrance for the functioning of computer systems, by entering information, transferring, changing, removing or destroying computer data or limiting unauthorized access to such data, is a criminal offence and its perpetrator is liable to imprisonment from three (3) months up to three (3) years. If committed by a member of a criminal organisation, its perpetrator is liable to imprisonment from one (1) up to five (5) years.

Article 13 **Unauthorized production, possession and attempt**

1. Production, sale, import, distribution or making available in any form, illegally, of any equipment or computer program designed and adapted for the purpose of committing any penal act, shall be liable to imprisonment from one (1) to four (4) years.
2. Production, sale, import, distribution or making available in any form, illegally, of the password, access code or other computer information that allow full or partial access to a computer system for the purpose of committing any penal act, shall be liable to imprisonment from one (1) to five (5) years.

3. Having in possession, illegally, of equipment, computer program, password, access code or computer information for the purpose of committing any penal act, shall be liable to imprisonment from one (1) to six (6) years.
4. The perpetrator, for attempt to commit a penal act from paragraph 2 and 3 of this Article, shall be liable to imprisonment from three (3) months to one (1) year.

Article 14
Computer related penal acts

1. Unauthorized data entry, change or deletion, of the computer data or unauthorized limitation of access to such a data, resulting in inauthentic data for the purpose of using them for legal purposes, it is penal act and its perpetrator is liable to imprisonment from six (6) months up to three (3) years. If committed by a member of a criminal organisation, it is liable to imprisonment from one (1) up to five (5) years.
2. For penal act attempt, according to this Article, the perpetrator shall be liable to imprisonment from three (3) months up to one (1) year.

Article 15
Causing loss of asset

1. Causing a loss in assets to another person by entering information, changing or deleting computer data by means of access limitation to such a data or any other interference into functioning of the computer system with the purpose to ensure economic benefits of his own or to someone else, shall be liable to imprisonment from three (3) to ten (10) years.
2. For penal act attempt from paragraph 1 of this Article, the perpetrator shall be liable to imprisonment from three (3) months to one (1) year.

Article 16
Child pornography through computer systems

1. The person, committing a penal act as foreseen in sub-paragraphs from 1.1 to 1.5. of this paragraph, the perpetrator shall be liable to imprisonment from six (6) months up to three (3) years. If classified that the act was committed in aggravating circumstances, the perpetrator shall be sentenced from one (1) up to ten (10) years.
 - 1.1. production of child pornography, intended for distribution through a computer system.
 - 1.2. provision or making available child pornography through a computer system;
 - 1.3. child pornography distribution or broadcast through a computer system;
 - 1.4. child pornography procurement through a computer system for itself or others;
 - 1.5. possession of child pornography through a computer system or memory devices of computer data.

2. The perpetrator of attempt to commit a penal act from paragraph 1 of this Article, shall be liable to imprisonment from six (6) months to three (3) years.

Article 17

Prosecution procedure

1. In urgent and completely justified cases, or reasonable doubt in relation to preparation or committing a penal act through computer systems, for the purpose of collecting evidence and identification of perpetrators, fast saving of computer data or data that refer to traffic data, by becoming subject to a risk to be destroyed or changed, shall be applied procedural provisions as it follows:
 - 1.1. in the course of investigation of a crime, is ordered to store the data by the prosecutor through an order, upon request of an investigation authority, whereas during legal procedure upon courts order.
 - 1.2. the measure that refers to paragraph 1 of this Article is valid for a time period up to ninety (90) days and may be extended for another thirty (30) days.
 - 1.3. prosecutor's order or judge's order shall be delivered, immediately to any service provider, or any person who is in possession of data that refer to sub-paragraph 1.1 of this paragraph, pertinent person is obliged to save them quickly in accordance with the terms of confidential preservation.
 - 1.4. in case when data refer to traffic data that are in possession of several service providers, the service provider referring to sub-paragraph 1.3 of this paragraph shall be obliged to provide immediately to the investigation body the necessary information for identification of other service providers in order of being aware of all elements in the used communication chain.
 - 1.5. the prosecutor is obliged that by the end of the investigations notifies in written the persons who are under investigation for a crime and information of which are stored.

Article 18

Sequestration, copying and maintenance of data

1. For the purpose of Article 17, sub-paragraph 1.2. the prosecutor shall propose confiscation of objects, equipment containing computer data, information on traffic data, data on the user, from the person or service provider owning them, for the purpose to create copies that might serve as evidence.
2. In case objects, equipment containing data that refer to data of justice authorities in order to create copies, under paragraph 1 of this Article, court's order on forceful confiscation shall be communicated to the prosecutor, who will take measures to fulfill it.
3. Copies according to paragraph 1 of this Article are created through technical means, computer programs and procedures which ensure information integrity and security.
4. The prosecutor may at any time order search for the purpose of disclosure or collection of necessary evidence about computer system investigation or computer equipment for data storage.

5. In case the crime investigation body or the court considers that confiscation of object containing data that refer to paragraph 1 will have a great impact on the activities carried out by the persons who possess such objects, could order creation of copies that would serve as evidence and which are created in compliance with paragraph 3 of this Article.
6. In case during an investigation of a computer system or computer equipment for data storage is learned that the required computer data are included into another computer system or other computer data storage device and to which access is provided from the primary system or device, it could be ordered carrying out and search in order to investigate entire computer systems or computer device for the storage of demanded data.

Article 19

Access, obtaining or record of communications

1. Access to a computer system as well as interception or record of communication carried out by the equipment of the computer systems shall be performed when useful to find the truth as well as facts or identification of perpetrators and could not be achieved based on other evidence.
2. The measures that refer to paragraph 1 of this Article shall be carried out upon a proposal of the prosecutor by crime investigation bodies with the assistance of specialized persons which are obliged to maintain confidentiality of the operation carried out.
3. The authorization referring to paragraph 2 of this Article shall be given for thirty (30) days, on grounded reasons might be extended for another thirty (30) days, whereas the maximum duration should not exceed a period of four (4) months.
4. The prosecutor is obliged that by the end of investigation to inform or write the persons against whom have been undertaken measures as referred to in paragraph 1 of this Article.

Article 20

International Cooperation

1. Kosovar authorities shall cooperate directly according to provisions of the law, by respecting obligations deriving from international legal instruments, with counterpart institutions of other states as well as international organizations specialised in this field.
2. Cooperation according to paragraph 1 of this Article could consist, in international legal assistance in penal issues, extradition, identification, block, confiscation of products and means used in carrying out the penal act, carrying out investigations, exchange of information, technical assistance or information collection, specialized training of personnel as well as other activities.

Article 21
Investigations

1. States and other organizations, upon their request could carry out investigation in cooperation with Kosovar authorities to prevent and fight cyber crime in the entire territory of Kosovo.
2. General investigations that refer to paragraph 1 of this Article are carried out on basis of bilateral and multilateral agreements.
3. The representatives of the competent Kosovar authorities may undertake investigations to be carried out in the territory of other countries in compliance with provisions of international agreements.

Article 22
Contact point

1. In order to ensure a permanent international cooperation in the field of cyber crime, the Government shall make available a permanent contact point.
2. This permanent contact point possesses the following competencies:
 - 2.1. provides specialized assistance and information on the legislation in the scope of cyber crime as well as informs contact points of other states;
 - 2.2. orders rapid data storage as well as confiscation of equipment containing computer data or data concerning traffic data demanded by a foreign competent authority;
 - 2.3. executes or assists in execution, according to legal provisions, in cases of cyber crime fight, by cooperating with the entire Kosovar competent authorities.
3. Government in a period of six (6) months from the entry into force of this law with a subsidiary act stipulates the establishment of point of contact stipulated in paragraph 1 of this Article.

Article 23
Requirements for accelerated data maintenance

1. Within the international cooperation, foreign competent authorities might request through the contact point to store quickly computer data or data concerning the traffic data that do exist inside a computer system in the territory of Kosovo, in relation to which a foreign authority have made a request for international legal assistance in penal issues.
2. The request for rapid storage according to paragraph 1 shall include the following information:
 - 2.1. authority who requests the storage;
 - 2.2. a brief presentation of facts that are subject to a crime investigation and the legal ground;
 - 2.3. computer data requested to be stored;
 - 2.4. any information available, required to identify the computer data owner and the location of the computer system;

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- 2.5. service of the computer system and the need to store them;
- 2.6. the purpose of the foreign authority for formulation of a request on international legal assistance in penal matters;
3. The storage request is executed according to Article 17 for a sixty (60) days period. This storage is valid until a decision is taken by competent Kosovar authorities, in relation to the request on international legal assistance in penal matters.

Article 24 Data storage

If, in the execution of the request formulated according to Article 23, paragraph 1 of this law, a service provider in a foreign country is found out that it is in possession of the data concerning to traffic data, the service of fight against cyber crime will inform immediately the requesting foreign authority about this, by communicating also all information for identification of the pertinent service provider.

Article 25 Access to public, open sources

1. Foreign competent authority may have access and can accept, through the system located in its territory, computer data stored in Kosovo, if it has the approval of the authorized person, according to legal provisions, to make available through the computer system, without filing request to the Kosovar authorities.
2. Foreign competent authority may have access to public, open Kosovar sources of computer data, without needing to file request to the Kosovar authorities.

Article 26 Legal provisions for providing information and data, necessary for the foreign authorities

The Kosovar competent authorities may deliver under their official duty to foreign competent authorities, by respecting legal provisions concerning protection of personal information, information and data, required by foreign competent authorities to disclose committed acts through computer system or to solve issues related to these crimes.

Article 27 Final Provisions

In case of discrepancies of the provisions of this Law with the provisions of the Code of Criminal Procedure the provisions of the Code of Criminal Procedure shall be applicable.

Law No. 03/L-166 on prevention and fight for the cyber crime

Article 28
Revenues

The revenues generated under this Law shall be deposited in the Budget of the Republic of Kosovo.

Article 29
Entry into force

This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No.03/L-166
10 June 2010

Promulgated by the Decree No. DL-028-2010, dated 02.07.2010, of the President of Republic of Kosova, Dr. Fatmir Sejdiu.

OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / PRISTINA: YEAR V / No. 74 / 20 JULY 2010

**LAW No. 04/L-213
ON INTERNATIONAL LEGAL COOPERATION IN CRIMINAL MATTERS**

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Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**LAW ON INTERNATIONAL LEGAL COOPERATION
IN CRIMINAL MATTERS**

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose**

1. This law establishes the conditions and procedures for international legal cooperation in criminal matters between the Republic of Kosovo and other states, unless otherwise provided by international agreements.
2. International legal cooperation may also take place in relation to international organisations or institutions, as appropriate.
3. In the absence of an international agreement between the Republic of Kosovo and another state, international legal cooperation shall be administered on the basis of the principle of reciprocity.
4. Judicial procedures for international legal cooperation are regulated by the provisions of the criminal procedure, unless otherwise provided by this Law.
5. The Republic of Kosovo shall comply with the formalities and procedures explicitly indicated by requesting states, if such formalities and procedures are not contrary to the fundamental principles of national law.

Article 2

Limits of cooperation

Application of this law is subordinate to the protection of interests of sovereignty, security, public order, and other interests of the Republic of Kosovo as defined by the Constitution.

Article 3

Definitions

1. Terms used in this law shall have the following meaning:
 - 1.1. **International legal cooperation in criminal matters** – any form of assistance requested or provided by another state, organisation or institution for the purpose of supporting criminal proceedings;
 - 1.2. **Request** – the act used to request international legal cooperation;
 - 1.3. **Requesting state** – the state which submitted a request for international legal cooperation;
 - 1.4. **Requested state** – the state addressed with a request for international legal cooperation;
 - 1.5. **Ministry** - the Ministry of Justice of the Republic of Kosovo;
 - 1.6. **National judicial authority** - courts and prosecution offices of the Republic of Kosovo as designated by law;
 - 1.7. **National law** – the law of the Republic of Kosovo;
 - 1.8. **Foreign judicial authority** - authority of another state which is competent according to the law of that state to provide or request international legal cooperation;
 - 1.9. **International wanted notice** - decision allowing for the publication by the International Criminal Police Organisation -INTERPOL of a notification seeking the provisional arrest of a person with a view to extradition;
 - 1.10. **Judicial decision** - judgment, ruling, order, or any other decision issued by a judicial authority;
 - 1.11. **Sentencing state** - the state where a sentence was imposed on a person who has been or may be transferred;
 - 1.12. **Administering state** - the state where a person has been or may be transferred in order to serve a sentence;
 - 1.13. **Extradition** - for the purpose of this Law shall also mean temporary surrender.

Article 4

Methods and language of communication

1. Requests for international legal cooperation shall be transmitted through the Ministry. Where necessary, diplomatic channels may also be used.
2. In urgent cases, national judicial authorities may provide assistance even if the request is received directly, through INTERPOL, or in any other form which produces a written record, on condition that the requesting state assures that it will

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- send the request in original within thirty (30) days in accordance with paragraph 1. of this Article.
3. If the request and supporting documents are in a foreign language, they should be accompanied by certified translations into Albanian or Serbian. Certified translations in English may also be accepted based on reciprocity.
 4. The Minister may allow direct cooperation between national and foreign judicial authorities, as deemed appropriate.

Article 5 Confidentiality

1. The Ministry shall ensure the confidentiality of requests for international legal cooperation and of the information contained in the requests if the requesting state so requires.
2. If the requirement referred to in paragraph 1. of this Article cannot be met, the Ministry shall notify the requesting state thereof.

CHAPTER II EXTRADITION

SUB CHAPTER I EXTRADITION FROM THE REPUBLIC OF KOSOVO TO OTHER STATES

Article 6 Purpose

1. A person sought by another state for the purpose of criminal proceedings or for the enforcement of a sentence may be extradited from the Republic of Kosovo to that state under the conditions foreseen by the present law.
2. The following persons cannot be extradited against their will:
 - 2.1. Kosovo citizens, unless otherwise provided by an international agreement between the Republic of Kosovo and the requesting state or by international law, as per Article 35 paragraph 4. of the Constitution of the Republic of Kosovo. An international agreement may be concluded for the purpose of extraditing an individual;
 - 2.2. persons who have been granted political asylum in the Republic of Kosovo;
 - 2.3. foreigners who enjoy immunity of jurisdiction in the Republic of Kosovo, within the limits of international obligations assumed by the Republic of Kosovo.
3. The status of a citizen of the Republic of Kosovo or of a political refugee is determined at the time of receipt of the request for extradition.

Article 7 Temporary surrender

On the basis of an international agreement, a person may be temporarily surrendered to another state on condition that after being heard before the foreign judicial authority he

or she be returned to the Republic of Kosovo, in order to serve the sentence imposed on him or her.

Article 8
Place of perpetration

1. Extradition shall not be permitted for criminal offences fully committed in the territory of the Republic of Kosovo and may not be permitted for criminal offences partially committed in the territory of the Republic of Kosovo.
2. If a criminal offence has been committed against a citizen of the Republic of Kosovo outside the territory of the Republic of Kosovo, extradition may be permitted on condition that national judicial authorities do not commence or terminate criminal proceedings for the same offence.

Article 9
Double criminality

Extradition shall be permitted only for criminal offences punishable by both the national law and by the law of the requesting state.

Article 10
Criminal offences for which extradition is permitted

1. When extradition is requested for criminal prosecution, it shall be permitted only for criminal offences where the maximum period punishable by deprivation of liberty is at least one (1) year or by a more severe punishment under both the national law and the law of the requesting state.
2. When extradition is requested for the enforcement of a sentence, it may be permitted if the duration of the sentence, or the remaining part of the sentence, exceeds the period of four (4) months of imprisonment.
3. If the request for extradition includes several separate offences each of which is punishable under the national law and the law of the requesting state by deprivation of liberty, but some of which do not fulfill the condition with regard to the amount of punishment which may imposed, extradition may be permitted with respect to all of them.

Article 11
Expiry of statutory limitation period

Extradition shall not be permitted in cases where, pursuant to the national law or the law of the requesting state, the statutory limitation period for criminal prosecution or enforcement of sentence is expired.

Article 12
Reasonable suspicion

Extradition shall be permitted when there is sufficient evidence to support a reasonable suspicion that the person has committed the criminal offence for which extradition is requested or if there is an enforceable judgment thereof.

Article 13
Ne bis in idem

1. Extradition shall not be permitted if a final judgment was passed by a national judicial authority against the person sought for the criminal offence or offences for which extradition is requested. Extradition may be permitted if national judicial authorities have decided not to commence or to terminate proceedings for the same criminal offence.
2. Extradition shall not be permitted if a final judgment was passed by the judicial authorities of a third state against the person sought for the criminal offence for which extradition is requested provided that an international agreement on mutual recognition and enforcement of criminal judgments between the Republic of Kosovo and that third state is in force.

Article 14
Political offences

1. Extradition shall not be permitted if the offence upon which the request is based is a political offence or an offence connected to a political offence.
2. For the purposes of this Law, the following offences shall not be deemed to be political offences:
 - 2.1. murder and attempted murder of the head of state or his or her family members;
 - 2.2. genocide, crimes against humanity, war crimes, and terrorism.

Article 15
Military offences

Extradition shall not be permitted for criminal offences under military law which are not criminal offences under ordinary criminal law.

Article 16
Death penalty and lifelong imprisonment

1. Extradition is not permitted for criminal offences which under the law of the requesting state are punishable by the death penalty, unless the requesting state gives assurances which are considered sufficient that the death penalty will not be imposed or carried out.
2. Extradition may not be permitted if the offence upon which the request is based is,

Law No. 04/L-31 on international legal cooperation in criminal matters under the law of the requesting State, punishable by life imprisonment or other custodial sanction for life, or if the person sought was sentenced to such a punishment and there is no review of the punishment or sanction either upon request or *proprio motu* after a period of no longer than twenty (20) years.

Article 17

Non-discrimination clause and human rights standards

1. Extradition shall not be permitted if there are reasonable grounds to believe that the request for extradition has been made for the purpose of prosecuting or punishing the person because of his/her race, religion, gender, nationality, political opinions, ethnicity, language, disability, sexual orientation, association in any social group, or if the person's position in society may be prejudiced for any of these reasons.
2. Extradition shall not be permitted if there are reasonable grounds to believe that the person sought for extradition may be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.
3. Extradition shall not be permitted if there are reasons to believe that the person will not be provided with the minimum guarantees for a fair trial as provided for by the Constitution of the Republic of Kosovo, in the requesting state.
4. Extradition sought for the enforcement of a sentence imposed by a judgment rendered in absentia shall be permitted only if the proceedings against the person respected the recognized minimum rights of defence of any person accused of committing a criminal offence. Extradition may also be permitted if the requesting state gives assurances considered sufficient to guarantee that the person sought has the right to a retrial in order to ensure the minimum rights of defence.
5. Extradition shall not be permitted if there are doubts that the person will be or has been tried or punished in the requesting state by an extraordinary or temporary court, unless the requesting state gives assurances considered sufficient to guarantee that the trial or a retrial will be carried out by a regular court in compliance with the law.
6. Extradition shall not be permitted for any other grounded reason which would account for a violation of the international law or other human rights standards.

Article 18

Request for extradition

1. The procedure for extradition is initiated by a written request addressed to the Ministry.
2. The request for extradition shall contain the criminal offence for which extradition is requested and shall be accompanied by the following documents:
 - 2.1. general information of the person sought, together with other information that would help in determining a person's identity, nationality and location;
 - 2.2. original or certified copy of the arrest warrant issued by competent authorities of requesting state or, if the person is sentenced for any offence, the original judgment or the certified copy of the judgment or any other document which indicates the imposed sentence, the fact that the sentence is

executable and the duration of the remaining sentence to be served. These documents should contain the time and place where the criminal offence was committed, the role of the person in the commission of the criminal offence, and the legal classification of the offence. If the documents do not contain such information, the request should be accompanied by a declaration providing the information under this paragraph;

- 2.3. an extract of criminal law of the requesting state applicable to the matter;
- 2.4. if the person sought was convicted in absentia, a statement should be provided confirming that the person was summoned or otherwise informed personally via an authorised representative according to the law of the requesting state of the time and place of the proceedings which resulted in the judgment rendered in absentia, or that the person has indicated to a competent authority that he or she does not contest the case or a statement indicating the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence.

Article 19 **Actions of the Ministry**

1. If after reviewing the request for extradition, the Ministry concludes that the information and documents provided are not sufficient, it may ask the requesting state to complete the request.
2. If the Ministry considers that the request meets the formal requirements, it shall pass the request to the competent Basic Prosecution Office.
3. The Ministry may request information regarding the progress of the extradition procedure from the national judicial authority at any time.

Article 20 **The role of the Basic Prosecution Office**

1. The Basic Prosecution Office in the territory of which the person sought is believed to reside or believed to be located is competent to deal with the request for extradition. If the location of the person sought is unknown, the extradition request shall be sent to the Basic Prosecution Office in Prishtina.
2. The Basic Prosecution Office shall immediately take action to identify and determine the location of the person sought and inform the person of the request submitted for his or her extradition.
3. The Basic Prosecution Office shall without delay and no later than three (3) days from the moment the person is identified and located submit the request for extradition to the Basic Court of the territory in which the competent Basic Prosecution Office, as established in paragraph 1. of this Article, is located.

Article 21
Determining measures to ensure the presence of the person
at the extradition procedure

1. In order to ensure the presence of the person sought during the extradition procedure, the Basic Prosecution Office shall act according to the provisions of the Criminal Procedure Code.
2. The competent pre-trial judge of the Basic Court identified pursuant to Article 20 paragraph 3. of this Law shall immediately release the person if:
 - 2.1. one of the situations mentioned under Article 6 paragraph 2. of this Law exists and the person states his or her unwillingness to be extradited;
 - 2.2. the person is not the same as the one identified in the request for extradition or in any of the documents mentioned under Article 18 paragraph 2. of this law;
 - 2.3. the arrest warrant or the document which lead to the person's arrest has been cancelled.
3. The Basic Prosecution Office shall notify the Ministry of any decision taken by the court under this Article.

Article 22
Provisional arrest pending receipt of a request for extradition

1. Even before the receipt of a request for extradition, a person sought may be arrested and detained for a period of a maximum of forty (40) days, if the requesting states submits to the Ministry a request for provisional arrest, which shall indicate that the documents referred to in Article 18 paragraph 2. exist and that a request for extradition will be submitted in due time. Requests for provisional arrest may be sent by electronic means.
2. INTERPOL notifications seeking arrest of a person with a view to extradition, as well as European Arrest Warrants have the same legal force as requests for provisional arrest.
3. Based on a request for provisional arrest, the state prosecutor and the police are entitled to arrest the person sought. The measure shall be confirmed by the competent pre-trial judge within forty eight (48) hours from the arrest, taking into account the provisions of Article 21 paragraph 2. of this Law. The pre-trial judge ex officio shall release the person if the request for extradition is not received by the court within forty (40) days from the day of the arrest.
4. The release does not exclude the possibility of re-arrest and extradition if a request for extradition is received subsequently.
5. The Criminal Procedure Code shall apply unless otherwise provided for by this Law.

Article 23
Judicial procedure on extradition

1. The permissibility of a request for extradition shall be reviewed by a panel of three judges of the competent Basic Court.

2. If several requests for extradition have been submitted by different states with respect to the same person, the proceedings shall be joined. If the proceedings are pending with different courts, the court which first initiated proceedings shall be competent.
3. The court may allow a representative of the requesting state to be present at the proceedings.
4. Within three (3) days from the date of receipt of the request for extradition, the court shall hold a hearing in the presence of the state prosecutor, the person sought, and his or her defence counsel. If the person sought does not have a defence counsel, the presiding judge of the panel shall appoint one ex officio.
5. At the beginning of the hearing, the presiding judge of the panel shall inform the person about his or her rights according to the Constitution of the Republic of Kosovo and the Criminal Procedure Code. The court shall question the defendant with respect to his or her personal circumstances and, in particular, with regard to his or her citizenship.
6. The court shall ask the person whether he or she consents to the extradition and shall inform him or her of the legal consequences of a simplified extradition procedure. If the person agrees, the court shall proceed in accordance with Article 24 of this law.
7. If the person does not consent to the simplified extradition and objects to the extradition, the court shall adjourn the hearing and give a forty eight (48) hours deadline for the person sought to indicate the grounds on which he or she opposes the extradition. The opposition can only be based on the fact that the person is not the person sought by the requesting state or that the conditions permitting extradition are not met.
8. The court may set another deadline of forty eight (48) hours for the prosecutor to be able to respond to the opposition made by the person sought.
9. If it is concluded that the information provided by the requesting state is not sufficient to make a decision, the court may submit a request for additional information to the Ministry, which shall address the request to the requesting state if necessary. The court may set a time-limit for the receipt thereof.
10. The court may examine any other evidence it deems relevant.
11. In cases where the person whose extradition is requested is subject to ongoing criminal proceedings in the Republic of Kosovo, the court shall state this fact in the minutes of the hearing and inform the Ministry. In such cases, the court shall ensure the possibility to freeze any property of the person needed to remunerate damaged parties in the criminal proceedings in the Republic of Kosovo.

Article 24 **Simplified extradition procedure**

1. The Ministry may agree that a person be extradited through the simplified extradition procedure provided that the person consents to it and that the requesting state accepts extradition through the simplified procedure.
2. The consent provided for in paragraph 1. of this Article shall be given before the competent court and shall be recorded in accordance with provisions of Criminal

Procedure Code, ensuring that the consent has been given on a voluntary basis and that the person is aware of the consequences that may derive. A given consent cannot be withdrawn.

3. The person may also declare that he or she renounces the benefit of the rule or speciality provided in Article 30 paragraph 3 of this law.
4. If the court finds that the simplified extradition is admissible, it shall note the finding in a ruling and decide on measures to ensure the presence of the person until surrender. The decision cannot be appealed.
5. When the person sought is subject of a request for provisional arrest in accordance with Article 22 of this Law, the simplified extradition shall not require the submission of a request for extradition and supporting documents in accordance with Article 18 paragraph 2. of this Law. The following information, to be provided by the requesting state, shall be sufficient for the purpose of a simplified extradition:
 - 5.1. the identity of the person sought, including his or her nationality when available;
 - 5.2. the authority requesting the arrest;
 - 5.3. information regarding the existence of an arrest warrant, other document having the same legal effect, or of an enforceable judgment;
 - 5.4. the nature and legal description of the offence, the maximum punishment which may be imposed or the punishment imposed in the final judgment, including whether any part of the sentence has already been enforced;
 - 5.5. information concerning statute of limitations
 - 5.6. a description of the circumstances in which the offence was committed, including the time, place, and degree of involvement of the person sought;
 - 5.7. in cases where extradition is requested for the enforcement of a final judgment, if the judgment was rendered in absentia, then the provisions of Article 18 paragraph 2.4. of this law apply *mutatis mutandis*.
6. The court shall, without any delay, inform the Ministry of the decision issued in accordance with this Article.
7. Extradition through the simplified procedure shall have the same legal effects and consequences as extradition permitted through regular procedure.

Article 25

Handover of items in the extradition procedure

1. Upon request of requesting state and in accordance with national law, the competent court shall confiscate and submit items that may be used as evidence, or that may have been obtained as a result of the criminal offence or have been used in the commission of the criminal offence.
2. The items provided for in paragraph 1. of this Article shall be submitted to the requesting state if the request for extradition was granted, even if the extradition was not carried out as a result of the death or escape of the person sought.
3. If the items and materials provided for in paragraph 1. of this Article are the subject of sequestration or confiscation in the Republic of Kosovo in relation to any ongoing criminal proceedings, they may be temporarily retained or handed over on the condition that they be returned to the Republic of Kosovo.

4. Where rights have been acquired by the Republic of Kosovo or by third parties in the Republic of Kosovo over the items and materials referred to in paragraph 1. of this Article, they should be returned without charge as soon as possible after the conclusion of the trial.

Article 26

Decision on the permissibility of extradition

1. If the panel of three judges of the competent Basic Court finds that the legal requirements for extradition are met, it shall issue a decision on the permissibility of the extradition.
2. The person sought may appeal the decision to the Court of Appeals within three (3) days from the service of the decision.
3. The appeal stays enforcement of the decision.

Article 27

Decision on the non-permissibility of the extradition

1. If the panel of three (3) judges of the competent Basic Court concludes that the conditions for extradition are not met, it shall render a decision finding that the request for extradition is not permissible.
2. The Basic Prosecution Office may appeal this decision to the Court of Appeals within three (3) days from the date of the service of the decision.
3. The panel of three (3) judges, upon request of the Basic Prosecution Office, may decide to keep a person, already in detention, detained until the decision on extradition becomes final.

Article 28

Decision on appeal

1. The appeal shall be decided upon by a panel of three judges at the Court of Appeals in accordance with the provisions of the Criminal Procedure Code.
2. If the Court of Appeals finds that the extradition is permissible, it shall also decide on measures to ensure the presence of the person until surrender.

Article 29

Submission of the decision to the Ministry

After the court decision on extradition becomes final, the competent Basic Court shall submit it and any other related decision taken by the courts, to the Ministry.

Article 30

Decision of the Minister

1. If the court decided in favor of the extradition, the Minister may either grant or refuse the extradition.

2. The Minister may postpone the extradition if criminal proceedings against the person are taking place before a national authority or if the person is serving a sentence in the Republic of Kosovo. The Minister may instead decide to temporarily surrender the person or to surrender him or her under certain conditions to be determined by mutual agreement with the requesting state.
3. The decision of the Minister to grant extradition may establish the following:
 - 3.1. the person to be extradited shall not be prosecuted or punished for other criminal offences committed prior to the extradition, other than those for which the extradition was granted;
 - 3.2. the person shall not be punished with a more severe sentence than the one already imposed;
 - 3.3. the person cannot be surrendered or extradited to a third state without the permission of the Minister.
4. The Minister may place additional conditions on the extradition.
5. If the court decided that the extradition was not permissible, the Minister shall issue a decision refusing the extradition.
6. The decision of the Minister is final and an administrative conflict may be initiated against it.

Article 31

Criminal prosecution in case of refusal of extradition

If the extradition has been refused, the competent Prosecution Office, may initiate criminal proceedings against the person in the Republic of Kosovo.

Article 32

Communication of decisions

The Ministry shall immediately notify the requesting State of the decision on extradition through the regular channels of communication. Notification of the decision to grant extradition shall also be sent to the Ministry of Internal Affairs.

Article 33

Surrender of the person sought

1. The Ministry and the requesting state shall agree on the date and place of surrender. The requesting state shall take over the person within thirty (30) days from the day when the decision granting extradition was received. Based on a supported request of the requesting state, the Ministry may extend this deadline for another fifteen (15) days.
2. At the agreed time and place of the surrender, the police shall hand over the person, together with any items and materials identified in Article 25 of this law, to the authorities indicated by the requesting state.
3. If the requesting state does not take custody of the person in accordance with paragraph 2. of this Article, the person shall be immediately released and the Minister may refuse a repeated request for extradition in respect to the same criminal offence.

Article 34
Concurrent requests for extradition

1. When several states request the extradition of the same person, the Minister shall decide the state to which the person sought should be extradited.
2. When deciding according to paragraph 1. of this Article, the Minister shall take the following criteria into consideration:
 - 2.1. the place where the criminal offence was committed;
 - 2.2. the severity of the criminal offence;
 - 2.3. the respective dates of the requests for extradition;
 - 2.4. whether the request for extradition was submitted for the purpose of prosecution or for enforcement of a sentence;
 - 2.5. the nationality of the person sought.

Article 35
Repeated request for extradition

If a request for extradition is refused, a new request for extradition against the same person and for the same offence may be reviewed if supported by new elements which were not examined under the previous request.

Article 36
Transit through the territory of the Republic of Kosovo

1. The Ministry may grant permission for a person being extradited by one state to another to transit through the territory of the Republic of Kosovo upon the request of the relevant state.
2. The transit of persons for the purpose of extradition for an offence foreseen by Articles 15, 16, or which would be in violation of paragraph 2. of Article 55 of this Law is not permitted.
3. The Ministry may refuse the request for transit:
 - 3.1. if the extradited person is a citizen of the Republic of Kosovo;
 - 3.2. if the offence for which the person is being extradited for is not considered a criminal offence under national law.
4. A person in transit may be held in detention in the territory of the Republic of Kosovo only for the time required for the transit.
5. If a person is transported by air and no landing is foreseen in the territory of the Republic of Kosovo, the permission referred to in paragraph 1 is not necessary. The Ministry, however, shall be notified about the transit. In case of unexpected landing, this notification will be treated as a request for transit. The notification must contain the name and nationality of the person extradited, the state to which the person is being extradited and the time of the air transit.

SUB CHAPTER II
EXTRADITION FROM ANOTHER STATE TO KOSOVO

Article 37
Request for extradition

1. Where a person is subject to an order, issued by national judicial authorities, of arrest, detention on remand, or subject to a sentence imposed by a final judgment, the Republic of Kosovo may request the extradition of that person from the state where the person is or believed to be located.
2. Before the filing of the indictment, the competent state prosecutor may request that the Ministry request extradition from another state. After the filing of the indictment, the competent court may request that the Ministry request extradition from another state.
3. The request for extradition shall be submitted to the requested state through the channels determined in Article 4 of this Law, together with the documents and information provided for by Article 18 paragraph 2 of this Law.
4. The request for extradition shall also include a request for all relevant information, including all statements given by the person whose extradition is requested, and all items identified in Article 22 of this law, if available.

Article 38
Request for provisional arrest with a view to extradition

1. The competent judicial authority in charge of the case may request that the Ministry submit a request to the state where the person sought has been located for the provisional arrest of the person with a view to extradition. In urgent cases, the Ministry may submit such requests directly.
2. The request for provisional arrest with a view to extradition shall state that the documents provided for by Article 18 paragraph 2. of this Law exist and indicate that the extradition will be requested through regular channels in due time.

Article 39
Rule of specialty and other conditions

1. A person extradited to the Republic of Kosovo shall not be prosecuted or sentenced for any criminal offence committed prior to his or her surrender other than that for which the extradition was granted, except in the following cases:
 - 1.1. when the requested state consents. A request for consent may be sent by the Ministry and shall be accompanied by the documents mentioned in Article 18 of this law and a legal record of any statement made by the extradited person with respect to the offence concerned;
 - 1.2. when the person had an opportunity to leave the territory of the Republic of Kosovo, but had not done so within forty five (45) days of his or her final discharge, or has returned to the territory of the Republic of Kosovo after leaving it.

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2. When the extradition is granted subject to certain conditions regarding the type and severity of the punishment, the court shall be bound by these conditions in imposing the punishment. In the case of enforcement of an already imposed punishment, the court which adjudicated lastly shall modify the judgment and bring the punishment imposed in line with the conditions of the extradition.
3. If the extradited person was detained in the requested state for the criminal offence for which he or she was extradited, the time spent in detention shall be deducted from the punishment.
4. National authorities shall respect any other conditions set out by the requested state.

Article 40

Procedure following arrest based on an international wanted notice

If a person sought by national judicial authorities is arrested in another state based on an international wanted notice, the Ministry shall as soon as possible submit to that state a request for the extradition of the person to the Republic of Kosovo.

CHAPTER III

TRANSFER OF CRIMINAL PROCEEDINGS

SUB-CHAPTER I

TRANSFER OF CRIMINAL PROCEEDINGS FROM OTHER STATES TO THE REPUBLIC OF KOSOVO

Article 41

Principle

Criminal proceedings initiated or expected to be initiated in another state may be transferred to the Republic of Kosovo at the request of that state.

Article 42

Conditions for accepting transfer of criminal proceedings

1. Transfer of criminal proceedings may be accepted by the Republic of Kosovo only if the offence subject to the request for transfer is considered a criminal offence in the Republic of Kosovo.
2. Transfer of criminal proceedings may be accepted in one of the following cases:
 - 2.1. the suspected person is a permanent resident of the Republic of Kosovo;
 - 2.2. the person is citizen of the Republic of Kosovo, or the Republic of Kosovo is the state of his or her origin;
 - 2.3. the person is serving or should serve a punishment which includes deprivation of liberty in the Republic of Kosovo;
 - 2.4. if proceedings for the same or other offences are being conducted against the person in the Republic of Kosovo;
 - 2.5. if it is considered that the transfer of proceedings is warranted in the interest

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- of arriving at the truth and in particular if the most important items of evidence are located in the Republic of Kosovo;
- 2.6. if it is considered that enforcement in the Republic of Kosovo of a sentence if one were passed is likely to improve the prospects for the social rehabilitation of the person.

Article 43
Refusal of transfer of criminal proceedings

1. Transfer of criminal proceedings may be refused if:
 - 1.1. the offence upon which the request for transfer is based is considered political or military in nature.
 - 1.2. the judicial authorities of the requesting state are not competent to prosecute the offence.
2. Transfer of criminal proceedings shall not be accepted if there are circumstances that do not allow the initiation of criminal proceedings under national law.

Article 44
Withdrawal of acceptance

1. Acceptance of a transfer may be withdrawn if:
 - 1.1. it becomes obvious that the presence of the suspected person in court in the Republic Kosovo cannot be ensured or that the sentence which may be imposed cannot be enforced in the Republic of Kosovo;
 - 1.2. one of the reasons for refusal provided for by Article 43 of this law becomes evident before the case is brought to the court;
 - 1.3. in other cases if the requesting state agrees.

Article 45
Request for transfer of criminal proceedings

1. A request for transfer of criminal proceedings shall be submitted in writing to the Ministry and shall be accompanied by original documents or certified copies of the criminal file along with other necessary records.
2. The requesting state shall notify the Ministry about any procedural action or measure pertaining to the criminal proceedings which were taken after the submission of the request for transfer. This communication should be accompanied by related documents.

Article 46
Action on request

1. After receiving a request for transfer of criminal proceedings, the Ministry shall send it to the Prosecution Office competent according to the Criminal Procedure Code in order to decide whether or not to accept the transfer.
2. The decision mentioned in paragraph 1. of this Article shall be immediately sent to the Ministry for further transmission to the requesting state.

Article 47
Notification of the decision

1. The Ministry shall notify the requesting state of the decision on whether or not to accept the transfer of criminal proceedings.
2. The Ministry shall also notify the requesting state of any final judgment rendered as a result of the transfer of criminal proceedings. The requesting state shall be provided with a certified copy of any such judgment.

Article 48
Validity of actions taken in the requesting state

1. Any act pertaining to the transferred proceedings taken in the requesting state in accordance with its law and regulations shall have the same validity in the Republic of Kosovo as if it had been taken by national authorities, provided that the act is in compliance with national law.
2. Any act which interrupts the statute of limitations period and which has been carried out in a valid manner in the requesting state shall have the same effects in the Republic of Kosovo.

Article 49
Proceedings initiated by criminal complaint

1. Where a criminal complaint is necessary in both the Republic of Kosovo and in the requesting state in order to initiate criminal proceedings, and such a complaint was filed in the requesting state, then the complaint shall have the same legal effect as a complaint having been filed in the Republic of Kosovo.
2. In cases where the criminal complaint would be necessary only in the Republic of Kosovo, the transfer of criminal proceedings may be accepted in absence of a complaint, if the person who is entitled to file the criminal complaint did not object within one month from the date when he or she was notified about his or her right to make objections.

SUB-CHAPTER II
TRANSFER OF PROCEEDINGS FROM THE REPUBLIC OF KOSOVO TO
ANOTHER STATE

Article 50
Principle

If it is believed that a person has committed a criminal offence prescribed by the national law, national judicial authorities, in accordance with the provisions of this Law, may request that another state take over the criminal proceedings, under the conditions set out in this Chapter.

Article 51

Temporary suspension of criminal proceedings in the Republic of Kosovo

1. National judicial authorities may temporarily suspend criminal proceedings against a person only if the conditions provided by this Law are met.
2. Any decision for suspension of criminal proceedings should be considered as temporary until the requested state notifies the Ministry of its decision to accept the transfer of criminal proceedings.

Article 52

Conditions for the transfer of criminal proceedings

1. Criminal proceedings may be transferred if:
 - 1.1. the suspected person is a national of the requested state or the requested state is his or her state of origin;
 - 1.2. the suspected person is serving or has to serve a sentence to imprisonment in the requested state;
 - 1.3. the requested state has initiated criminal proceedings for the same offence or other offences against the suspect;
 - 1.4. it is considered that the transfer of proceedings is justified in the interest of arriving at the truth and in particular if the most important items of evidence are located in the requested state;
 - 1.5. it is considered that the enforcement of a sentence, if one were passed, in the requested state is likely to improve the prospects for the social rehabilitation of the person sentenced;
 - 1.6. the presence of the person at trial in the Republic of Kosovo cannot be ensured but presence can be ensured in the requested state;
 - 1.7. enforcement of a sentence, if one were passed, would not be possible even if recourse to extradition was available, or a request for extradition has been refused.

Article 53

Authority to submit a request for transfer

1. Before the filing of the indictment, the request for transfer of criminal proceedings shall be submitted by the competent state prosecutor. After the indictment is filed, the request shall be submitted by the competent court.
2. The request for transfer of proceedings together with the entire case file shall be sent to the Ministry.

Article 54

Effects of the transfer

1. When a request for transfer has been submitted to another state, national judicial authorities can no longer prosecute the person for the offence subject to that request or enforce a judgment previously rendered in the Republic of Kosovo against the person for that offence. However, until the decision of the requested state on whether to accept or not the transfer is received, national judicial

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- authorities retain the right to take necessary steps with respect to prosecution, except for bringing the case to trial.
2. The right of prosecution shall revert to the national judicial authorities if:
 - 2.1. the requested state informs the Ministry of a decision not to take action on the request;
 - 2.2. the requested state informs the Ministry of a decision to refuse acceptance of the request;
 - 2.3. the requested State informs the Ministry of a decision to withdraw acceptance of the request;
 - 2.4. the requested State informs the Ministry of a decision not to institute proceedings or discontinue them;
 - 2.5. the national authority which made the request withdraws it before the requested state has informed the Ministry of a decision to take action on the request.
 3. Any final judgment rendered by the requested state shall produce the same effects as if it were rendered in the Republic of Kosovo.

CHAPTER IV TRANSFER OF SENTENCED PERSONS

SUB-CHAPTER I TRANSFER OF SENTENCED PERSONS FROM THE REPUBLIC OF KOSOVO TO OTHER STATES

Article 55 Principle

A person convicted and sentenced to imprisonment in the Republic of Kosovo may be transferred to another state to serve the sentence or the remainder of the sentence there.

Article 56 Conditions for transfer

1. Pursuant to this Law, a sentenced person may be transferred only if the following conditions are met:
 - 1.1. the person is a national of the administering state;
 - 1.2. the judgment is final;
 - 1.3. at the time when the request for transfer is received, he or she has at least six (6) months of sentence to serve or the sentence is undetermined;
 - 1.4. the sentenced person consents to the transfer or his or her legal representative consents to the transfer in view of the person's age, physical, or mental condition
 - 1.5. the administering state agrees to the transfer.
2. The transfer of a sentenced person is not permitted if:
 - 2.1. there are doubts that the person may suffer torture or other cruel, inhuman, degrading treatment or punishment;
 - 2.2. there are serious reasons to believe that, if transferred, the person would be

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prosecuted or punished because of his or her race, religion, citizenship, association with a certain social group, political beliefs, or that his or her situation would be made more difficult for one of these reasons.

3. In exceptional cases, the Ministry may agree to the transfer even if the part of the sentence left to be served is less than the period provided for in paragraph 1.3. of this Article.
4. Upon acceptance of a request to transfer, the Ministry may determine the following conditions:
 - 4.1. that the person to be transferred shall not be prosecuted or punished for a criminal offence committed before the transfer;
 - 4.2. that the person should not be punished with a more severe sentence than the one already imposed;
 - 4.3. that the person cannot be surrendered or extradited to a third state without permission of the Ministry.
5. The Ministry may determine other conditions for the transfer, if necessary.

Article 57

Obligation to provide information

1. Foreign nationals sentenced by final judgment in the Republic of Kosovo, shall be informed of the provisions of this Chapter.
2. If a person sentenced by final judgment has expressed an interest to be transferred in accordance with this Law, the Ministry may inform the state concerned.
3. The information shall contain:
 - 3.1. the name, date, and place of birth of the sentenced person;
 - 3.2. the address of the sentenced person, if any, in the territory of the administering state;
 - 3.3. a description of the facts upon which the sentence was based;
 - 3.4. the nature and duration of the sentence and the date of commencement of the enforcement of the sentence.
4. If a sentenced person has expressed interest to be transferred to the administering state, the Ministry shall provide the information identified in paragraph 3. of this Article to the administering state, upon its request.
5. The sentenced person shall be informed in writing, in a language he or she understands, of any action taken by the Republic of Kosovo or by the administering state in accordance with paragraph 4. of this Article and about any other action of any state pertaining to the request for transfer.

Article 58

Consent and verification

The correctional authority or any other authorised official shall ensure that the person giving consent has done so on a voluntary basis and is fully aware of the legal consequences.

Article 59
Request for transfer and supporting documents

1. The request of the Ministry to transfer a sentenced person to another state shall be submitted in writing.
2. The request shall be accompanied by the following documents:
 - 2.1. original or certified copy of the judgment and extract of the relevant law;
 - 2.2. a statement from the correctional institution indicating the part of the sentence already served, including the time spent in pre-trial detention and any other information relevant to the enforcement of the sentence;
 - 2.3. the written statement of consent to transfer given by the sentenced person;
 - 2.4. where appropriate, any medical or social reports on the sentenced person containing information about treatments and any recommendation for future treatment in the administering state.
3. Before submitting a request for transfer, the Ministry may request from the administering state to provide:
 - 3.1. a document or a statement indicating that the sentenced person is a national of that state;
 - 3.2. a statement on the manner of enforcement of the sentence, whether by continuation or by conversion of the sentence.

Article 60
Transfer of sentenced persons subject to deportation or expulsion orders

1. The Ministry may grant the transfer of a person without his or her consent if an order for deportation or expulsion or any other measure which does not permit the person to stay in the territory of the Republic of Kosovo after release was issued by national authorities.
2. The Ministry may grant the transfer on the basis of paragraph 1. of this Article only after considering the opinion of the sentenced person.
3. The Ministry shall provide the administering state with the following documents:
 - 3.1. a statement which contains the opinion of the sentenced person about his or her transfer; and
 - 3.2. a certified copy of the deportation or expulsion order, or any other order which does not permit the person to stay in the Republic of Kosovo after release.
4. Where a person is transferred without his or her consent under this Article, the Ministry, upon the request of the administering state, may authorise that state to prosecute, sentence or detain the person for criminal offences committed prior to the transfer. Such authorisation may only be given when the offence for which it is requested would itself be subject to extradition under the national law Kosovo or when extradition would be excluded only by reason of the amount of punishment.

Article 61
Effects of the transfer

1. The transfer of the sentenced person to the authorities of the administering state suspends the enforcement of the sentence in the Republic of Kosovo.

2. The authorities of the Republic of Kosovo may no longer enforce the sentence if the sentence is considered completed by the administering state.

SUB-CHAPTER II
TRANSFER OF SENTENCED PERSONS FROM OTHER STATES
TO THE REPUBLIC OF KOSOVO

Article 62

Purpose and conditions for transfer

1. The Ministry may grant the transfer of a person sentenced by another state to a correctional institution in the Republic of Kosovo in order to serve his or her sentence or the remaining sentence, provided that the criminal offence for which the person was sentenced in the sentencing state is a criminal offence under national law.
2. Transfer may be granted upon receipt of written request submitted to the Ministry by the sentencing state or by the sentenced person or by someone authorised on his or her behalf if the sentencing state consents to the transfer.
3. Articles 56, 59, and 60 of this Law apply *mutatis mutandis*.

Article 63

The enforcement procedure

1. Persons transferred under this Law shall be subject to one of the following procedures:
 - 1.1. sentences shall be continued when the sentencing state is a member state of the European Union or a state with which the Republic of Kosovo has an agreement to that effect.
 - 1.2. sentences shall be converted when the sentencing state is not one mentioned in paragraph 1.1 of this Article.
2. The Basic Court of Pristina is competent to decide on the enforcement procedure mentioned in paragraph 1. of this Article. The decision cannot be appealed.

Article 64

Continuation of the sentence

1. In the cases where paragraph 1.1 of Article 63 of this law is applicable, the competent court shall issue a decision to continue the enforcement of the sentence imposed in the sentencing state. The court is obliged to adhere to the legal nature and duration of the sentence imposed in the sentencing state.
2. In the event that the sentence imposed in the sentencing state by its nature or duration is incompatible with national law, the sentence shall be converted according to Article 65 of this law.

Article 65
Conversion of the sentence

1. In the cases referred to in paragraph 1.2 of Article 63 of this law, the competent court shall issue a decision imposing a sentence in accordance with national law.
2. When converting the sentence, the court shall:
 - 2.1. be bound by the findings presented in the judgment rendered by the sentencing state;
 - 2.2. not convert a punishment of imprisonment into a punishment of a fine;
 - 2.3. deduct the period of the sentence served by the sentenced person in the sentencing state from the sentence imposed; and
 - 2.4. not aggravate the criminal status of the sentenced person and not be bound by any minimum sanction which the law of the sentencing state may provide for the offence committed.
3. The conversion procedure shall take place before the sentenced person is transferred.

Article 66
Persons having fled from the sentencing state

1. When a citizen of the Republic of Kosovo who is subject to a sentence imposed by a final judgment in another state attempts to avoid enforcement of the sentence in that state by fleeing to the Republic of Kosovo, upon the request of the competent authority of that state, the Ministry may agree to take over the enforcement of the sentence in the Republic of Kosovo.
2. Upon the request of the sentencing state, before receiving the documents supporting the request or before a decision on the request is made, national judicial authorities may arrest the person or may take other measures to ensure his or her presence in the territory of the Republic of Kosovo pending a decision on the request. The request for temporary arrest should contain information provided for in paragraph 3. of Article 60 of this Law. The criminal status of the sentenced person shall not be aggravated as a result of any time spent under arrest pursuant to this paragraph.
3. The consent of the sentenced person is not required in order to transfer the enforcement of the sentence.

Article 67
Guarantees for sentenced persons transferred without their consent

1. Any person transferred to the Republic of Kosovo without his or her consent under Article 60 of this Law shall not be prosecuted, sentenced, or detained for any offence committed prior to his or her transfer other than that for which the sentence to be enforced was imposed, nor shall he or she for any other reason be restricted in his or her personal freedom, except when the sentencing state so authorises. A request for authorisation shall be submitted, accompanied by all relevant documents and a legal record of any statement made by the convicted person.

2. Notwithstanding the provision of paragraph 1. of this Article, national judicial authorities may take action to prevent the running of the statute of limitation.

Article 68

Termination of enforcement of the sentence

Enforcement of the sentence shall be terminated if the Ministry is informed by the sentencing state that the competent authorities of the sentencing state had issued a decision or any other measure by which the sentence can no longer be enforced.

Article 69

Information on enforcement of the sentence

1. The Ministry shall inform the sentencing state about the enforcement of the sentence:
 - 1.1. when the enforcement of the sentence is considered to be terminated;
 - 1.2. if the sentenced person has escaped from custody before the completion of the sentence.

Article 70

Permission for transit of a sentenced person

1. The Ministry may grant permission for a sentenced person being transferred by one state to another to transit through the territory of the Republic of Kosovo upon the request of either state.
2. The transit of a person to serve a sentence for an offence provided for by Article 15, 16 paragraph 1., or which would be in violation of paragraph 2. of Article 55 of this law, is not permitted.
3. The Ministry may refuse a request for transit if:
 - 3.1. the sentenced person is a citizen of the Republic of Kosovo;
 - 3.2. the offence for which the sentenced person is convicted is not considered a criminal offence by national law.
4. A sentenced person may be detained in the territory of the Republic of Kosovo only for the time required for transit.
5. If a person is transported by air and no landing is foreseen in the territory of the Republic of Kosovo, the permission referred to in paragraph 1 is not necessary. The Ministry, however, shall be notified about the transit. In case of unexpected landing, this notification will be treated as a request for transit. The notification must contain the name and nationality of the person transferred, the state to which the person is being transferred and the time of the air transit.

**CHAPTER V
RECOGNITION AND ENFORCEMENT OF JUDGMENTS**

**SUB-CHAPTER I
RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS
IN THE REPUBLIC OF KOSOVO**

**Article 71
General principles**

1. Final judgments issued by courts of other states against citizens or permanent residents of the Republic of Kosovo may be recognized and enforced in the Republic of Kosovo under the conditions provided in this Chapter, if the judgment refers to one of the types of punishment foreseen by the national law.
2. The procedure for recognition and enforcement may only be initiated on the basis of a written request received by the Ministry. The request is to be accompanied by the original or by a certified copy of the judgment to be enforced and any other relevant documents.
3. After reviewing the formal requirements of the request, the Ministry shall transmit it, together with the supporting documents received, to the competent court. The Basic Court in the territory where the sentenced person resides or is located shall be competent to decide on the request for recognition and enforcement. If the residence or location of the person cannot be determined, the Basic Court of Prishtina shall be competent.

**Article 72
Conditions for recognition and enforcement**

1. The court shall only refuse the recognition and enforcement of a foreign judgment in one of the following situations:
 - 1.1. the enforcement would be contrary to the fundamental principles of the legal system of the Republic of Kosovo;
 - 1.2. the offence for which the sentence was rendered is of a political nature or military one;
 - 1.3. there are substantial grounds to believe that the judgment was rendered on considerations of race, religion, nationality or political opinion;
 - 1.4. the offence on which the foreign judgment is based is already subject of a final judgment or proceedings in the Republic of; Kosovo;
 - 1.5. under national law, the enforcement of the sanction is statute barred or has been pardoned;
 - 1.6. the judgment was rendered in absentia, unless the requesting state provides supporting information that, according to its law, the person was summoned or otherwise informed personally via a competent representative, of the time and place of the proceedings which resulted in the judgment rendered in absentia, or that the person has indicated to a competent authority of the requesting state that he or she does not contest the case, or did not request a retrial or appealed.

2. If the requesting state fails to provide the information provided by paragraph 1.6 of this Article, judgments rendered in absentia may be recognised and enforced if the person has been provided with the possibility to make an opposition to the judgment and the person did not lodge an opposition within twenty (20) days.
3. In all other cases, the foreign judgment shall be recognised and declared enforceable by the competent court provided that the criminal offence for which the judgment was rendered would be considered a criminal offence if committed in the territory of the Republic of Kosovo and the person would be considered criminally liable.

Article 73 **Judicial proceedings**

1. The court in a panel of three judges shall render a judgment regarding the recognition of the foreign judgment and the enforcement of the sentence imposed.
2. Before rendering the judgment, the court shall hear the opinion of the person and that of the competent state prosecutor. The court shall be bound by the findings as to the facts as stated in the foreign judgment.
3. In the enacting clause of the judgment, the court shall state in full the enacting clause of the judgment of the foreign court and the name of the foreign court.
4. The court shall impose a sanction in accordance with national law. In the reasoning of the judgment, the court shall state the reasons upon which the sanction is imposed. If the sentence is incompatible with the national law, the court may adapt the sentence only where that sentence exceeds the maximum punishment provided for similar offences under national law. If the sanction imposed by the foreign court is less than the minimum which may be imposed under the national law, the court shall not be bound by that minimum and shall impose a sanction corresponding to the sanction imposed in the requesting state.
5. Any part of the sanction imposed by the foreign court and any period of pre-trial detention served by the person in the requesting state or in the Republic of Kosovo shall be deducted in full.
6. An appeal against the national judgment may be filed by the state prosecutor, the sentenced person, and his or her defence counsel in accordance with the provisions of the Criminal Procedure Code.
7. A person for whom a request for recognition and enforcement of judgment has been submitted to the Ministry, may be arrested and placed in detention on remand in accordance with the Criminal Procedure Code.

Article 74 **Enforcement of punishments of fine and confiscation of money**

1. If a request for enforcement of a fine or confiscation of a sum of money has been accepted, the court shall convert the amount into the currency in circulation in the Republic of Kosovo according to the exchange rate recorded by the central bank valid for the day when the judgment was issued. In doing so, the court shall fix the amount of the fine or the sum to be confiscated, which shall not exceed the maximum sum established by the national law for the same criminal offence.

2. When the request for enforcement concerns the confiscation of a particular item, the court may order the confiscation of that item only if the national law permits confiscation for the same criminal offence or if it allows for the imposition of a more severe sanction. If confiscation of a particular item is not possible, the court may instead decide to confiscate the monetary amount equal to the value of that item if the requesting state agrees. In such cases, the rate mentioned in paragraph 1. of this Article shall apply *mutatis mutandis*.

Article 75

Destination of proceeds of fines and confiscations

1. Revenues from the collection of fines and confiscations shall be paid to the state budget of the Republic of Kosovo unless otherwise agreed with the requesting state and without prejudicing the rights of third parties.
2. Confiscated property which is of a special interest to the requesting state may be returned to it if it so requires.

Article 76

Enforcement of accessory punishments

1. Where the request for enforcement concerns an accessory punishment, such a sentence may be enforced in the Republic of Kosovo only if the national law permits the imposition of such sentence for the same criminal offences.
2. When the court orders enforcement of an accessory punishment, it shall determine the duration of the sentence within limits set forth by national law, without exceeding the limits determined by the sentence imposed by the requesting state.

SUB-CHAPTER II

ENFORCEMENT OF NATIONAL JUDGMENTS IN OTHER STATES

Article 77

Conditions for the submission of requests for recognition and enforcement

1. The recognition and enforcement of a final judgment rendered by a court in the Republic of Kosovo in another state may be requested from that state in any of the following cases:
 - 1.1. the person sentenced is a national or a permanent resident of the requested state;
 - 1.2. the person sentenced is already serving a sentence of imprisonment for another offence in the requested state;
 - 1.3. the enforcement of the sanction in the requested state is likely to improve the prospects for the social rehabilitation of the person sentenced;
 - 1.4. the extradition of the person to the Republic of Kosovo would not be permissible under the law of the requested state.
2. Recognition and enforcement of a national decision may be requested to another state in any other situation where it is considered that the decision can not be enforced in the Republic of Kosovo.

Article 78

Submission of requests for recognition and enforcement

1. Requests for the recognition and enforcement of judgments rendered by national courts shall be submitted to the requested state by the Ministry, upon the request of the court which rendered the judgment.
2. The request shall be made in writing and shall be accompanied by the original or certified copy of the judgment whose enforcement is requested and any other documents necessary under the law of the requested state.

Article 79

Effects of requests for recognition and enforcement

1. If the requested state agrees to enforce the judgment in its territory, the authorities of the Republic of Kosovo no longer have the right to enforce the judgment.
2. The right to enforce the judgment shall revert to the Republic of Kosovo if the person evades enforcement of the sentence.

CHAPTER VI

MUTUAL LEGAL ASSISTANCE

Article 80

Principle

1. Upon the request of a judicial authority of another state, national judicial authorities shall provide assistance to that state for criminal proceedings conducted for offences whose punishment, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting state.
2. Legal assistance within the meaning of paragraph 1 of this Article shall be any type of support given to foreign authorities regardless of whether the foreign proceedings are conducted by a court or by a prosecution office or if the legal assistance is to be provided by a court or by a prosecution office.
3. Legal assistance under this Chapter may also be provided or requested for the taking of provisional measures for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests,
4. National judicial authorities shall give priority to the execution of requests for mutual legal assistance and take into account any procedural deadlines and any other terms indicated by the requesting state.

Article 81

Extended mutual legal assistance

Assistance shall also be provided in support of proceedings brought by administrative authorities with regard to acts which are punishable by the national law or by the law of the requesting state for being infringements of laws which could lead to criminal proceedings.

SUB CHAPTER I
NATIONAL REQUESTS FOR MUTUAL LEGAL ASSISTANCE ADDRESSED
TO ANOTHER STATE

Article 82

Authority to submit requests for legal assistance

1. During pre-trial proceedings and until the filing of the indictment, requests for mutual legal assistance shall be submitted by the state prosecutor conducting the proceedings for which the assistance is requested. In cases where the act or measure requested, if it were to be performed in the Republic of Kosovo, would require, pursuant to the Criminal Procedure Code, an order of the court, the request shall be submitted by the court upon the application of the state prosecutor.
2. After the filing of the indictment, requests for legal assistance shall be submitted by the court conducting the proceedings for which the assistance is requested.
3. Requests for mutual legal assistance shall be submitted to the Ministry and the Ministry shall review these requests and transmit them together with any supporting documents to the competent authority of the requested state.

Article 83

Content of the request

1. The request for assistance shall be made in writing and shall include the following information:
 - 1.1. the name of the authority conducting the criminal proceedings relating to the request;
 - 1.2. a description of the facts of the case, including the time and place of commission of the criminal offence and any damage caused, as well as the legal classification of the offence;
 - 1.3. extract of applicable legal provisions, including provisions regarding the statute of limitation and those on the sentence which may be imposed;
 - 1.4. the identification of the persons against whom the criminal proceedings for which the assistance is requested are being conducted;
 - 1.5. a description of the requested activities and an explanation of how they link to the facts of the case;
 - 1.6. where applicable, the identification of the time limit within which the request should be executed and justification of the urgency;
 - 1.7. where applicable, the identification of the persons to be authorised to be present at the enforcement of the request;
 - 1.8. where applicable, identification of the allowances and reimbursements to which the person who is summoned to appear for the purpose of taking evidence is entitled;
 - 1.9. where applicable, technical information necessary for taking evidence via videoconference.
2. The request for assistance, to the extent necessary and insofar as possible, shall also include the following:

- 2.1. information on the identity of the person concerned by the request and on his or her whereabouts;
- 2.2. information on the identity and residence of the person on which service is to be effected and his or her status with respect to the proceedings, as well as the manner in which service is to be made;
- 2.3. information on the identity and residence of the person who has to give testimony or make statements;
- 2.4. the location and description of the place or item to be inspected or examined;
- 2.5. the location and description of the place to be searched and indication of the items to be seized or confiscated;
- 2.6. the indication of any special procedure sought for executing the request and the relevant reasons for it;
- 2.7. the indication of any requirement for confidentiality;
- 2.8. any other information which may facilitate the execution of the request.

SUB-CHAPTER II

REQUESTS FOR MUTUAL LEGAL ASSISTANCE ADDRESSED BY OTHER STATES TO THE REPUBLIC OF KOSOVO

Article 84

Acceptance of requests for mutual legal assistance

1. Upon receipt of a request for mutual legal assistance, the Ministry, after examining its permissibility, shall send it for execution to the competent Basic Prosecution Office in whose territory the person concerned resides or may be found or the object concerned is located. In case the residence of the person is unknown, then the competent authority is the Basic Prosecution Office in Prishtina.
2. Where the request for mutual legal assistance relates to ongoing criminal proceedings in the Republic of Kosovo, the state prosecutor in charge of these proceedings shall be competent to execute the request.
3. If the request is not complete, the Ministry may return it to the requesting state for additional information.

Article 85

Refusal to provide assistance

1. Assistance may be refused if:
 - 1.1. the request concerns a political offence;
 - 1.2. the execution of the request is likely to prejudice the sovereignty, security, ordre public, or other essential interests of the Republic of Kosovo;
 - 1.3. the request is contrary to the legal system of the Republic of Kosovo.
2. If a request is fully or partially refused, the Ministry shall notify the requesting state in writing.

Article 86
Authority to execute requests

1. The competent prosecutor shall execute the action or measure requested in accordance with national law.
2. If the prosecutor in charge of executing the request for assistance concludes that the request does not meet the conditions provided for by the national law, he or she shall return it to the requesting state, through the Ministry, along with an explanation.

Article 87
Postponed or partial execution of requests

1. If the execution of a request for mutual legal assistance would prejudice investigations, prosecutions, or court proceedings in the Republic of Kosovo, the execution of the request may be postponed. The requesting state shall be informed of the postponement.
2. Where appropriate, after having consulted with the requesting state, the Ministry may, instead of refusing or postponing the request for assistance, consider whether the request may be granted partially or granted subject to such conditions as it deems necessary.

Article 88
Participation of foreign officials

1. Upon request of the requesting state, the Ministry may grant permission for authorised officials of that state to be present at the execution of the request for mutual legal assistance. The national judicial authority in charge of executing the request shall notify the Ministry of the date and place of execution of the request. The Ministry shall inform the requesting state in this regard.
2. The Ministry may especially allow participation of foreign officials during the execution of a request if such participation will accommodate the execution of the request in accordance with the needs of the requesting state or if the need for additional requests would be avoided.

Article 89
Hearing by video conference

1. When a person who is in the territory of the Republic of Kosovo needs to be heard as a witness or expert by a foreign judicial authority, that authority may request that the person be heard by video conference if it is not desirable or possible for the person to appear in the territory of that state in person.
2. The request for a hearing by video conference should indicate the reason why it is not possible or desirable for the person to be present, the name of the judicial authority and of the persons who will be conducting the hearing.
3. Requests for hearings by video conference shall be executed by the Basic Court in

whose territory the person to be heard resides or is located. The court shall summon the person in accordance with the national law.

4. The hearing by video conference shall be carried out in accordance with the following rules:
 - 4.1. the hearing shall take place in the presence of a judge, who shall verify the identity of the person to be heard and shall ensure respect of his or her rights provided by national law and of the fundamental principles of the national law;
 - 4.2. where necessary, the requesting state and the Ministry shall agree on measures for the protection of the person to be heard;
 - 4.3. the hearing shall be conducted directly by, or under the direction of, the judicial authority of the requesting state in accordance with its own laws;
 - 4.4. upon the request of the requesting state or of the person to be heard, the court shall ensure provision of interpretation during the hearing;
 - 4.5. the person to be heard may claim any right not to testify which he or she might have under the national law or the law of the requesting state.
5. Without infringing upon any measures taken for the protection of the person, minutes of the hearing shall be drawn indicating the date and place of the hearing, the identity of the person heard, the identity and functions of all other persons participating in the hearing in the Republic of Kosovo, any oaths taken, and the technical conditions of the hearing. This document is to be submitted to the competent authorities of the requesting state.
6. Upon the request of the requesting state, national judicial authorities may apply the provisions of this Article to hearings by video conference involving an accused person or a suspect. In this case, the decision to hold the hearing and the manner in which it will be carried out shall be subject to national law.

Article 90

Search, seizure, and confiscation

1. Requests for search, seizure and confiscation of property may be executed only if:
 - 1.1. the offence on which the request is based is punishable under both the law of the requesting state and the national law; and
 - 1.2. the execution of the request is consistent with the national law.

Article 91

Submission of property

1. Any property, as well as original documents submitted for the execution of a request, shall be returned to the Republic of Kosovo from the requesting state as soon as possible, unless the national judicial authority renounces their restitution.
2. Submission of property, judicial materials or other required documents may be postponed when such materials are needed in the Republic of Kosovo for pending criminal proceedings.

Article 92
Spontaneous exchange of information

1. Without hindering the course of investigations or criminal proceedings, national judicial authorities may, without a prior request, transmit to the competent authorities of another state information collected during their investigations if they consider that the disclosure of such information may assist the receiving state in initiating or carrying out investigations or criminal proceedings, or if it may lead to a request for mutual legal assistance by the receiving state.
2. The Ministry may establish conditions for the use of information referred to in the paragraph 1. of this Article.

Article 93
Service of writs and records of judicial documents

1. The competent branch of the Basic Court shall provide serve summonses and court documents which have been submitted by another state for such purpose.
2. Service shall be effected in accordance with the national law regarding service of similar documents or, at the request of the requesting state, in accordance with the procedure indicated in the request if it is compatible with the national law.
3. Proof of service shall be provided by means of a receipt dated and signed by the person served or if such is not possible, by means of a statement indicating that the service has been effected, and the form and date of the service. If service cannot be effected, the court shall state the reasons why, which shall be communicated by the Ministry to the requesting state as soon as possible.

SUB CHAPTER III
APPEARANCE OF WITNESSES, EXPERTS, AND DEFENDANTS

Article 94
**Service of summonses to witnesses, experts, and defendants to appear before the
judicial authorities of the requesting state**

1. In cases where another state considers the personal appearance of a witness or expert before its judicial authorities necessary or asks for the voluntary appearance of a defendant and requests the service of a summons in the Republic of Kosovo to that effect, the competent national judicial authority shall invite the defendant, witness or expert to appear.
2. The Ministry shall notify the requesting state of the response given by the witness, expert or defendant.
3. If witnesses, experts or defendants summoned to appear before the judicial authorities of another state fail to do so, they will not be subject to any punishment or other compulsory measures.

Article 95

Guarantees for the witness, expert or for the defendant appearing on a summons before national judicial authorities

1. Witnesses or experts, regardless of their citizenship, who appear on a summons before national judicial authorities, shall not be prosecuted or detained or subjected to any other restriction of their personal liberty within the territory of the Republic of Kosovo in regard to offences committed before their departure from the requested state.
2. Regardless of his or her citizenship, a person appearing on a summons before a national judicial authority as an accused person shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty for any offence committed before his or her departure from the requested state and which was not specified in the summons.
3. Immunity granted by this Article will cease in cases where the witness, expert, or defendant does not leave the territory of the Republic of Kosovo within fifteen (15) days from the date when his or her presence is no longer required by national judicial authorities, or if such person left this territory and returned.

Article 96

Temporary transfer of detained persons to appear as witnesses before judicial authorities of a requesting state

1. A detained person, whose personal appearance as a witness for the purpose of examination or confrontation is requested by another state, may be temporarily transferred to the territory of that state, on condition that he or she is returned to the Republic of Kosovo within a period of time determined by the Ministry.
2. The transfer may be refused if:
 - 2.1. the person does not consent;
 - 2.2. his or her presence in the Republic of Kosovo is necessary because of pending criminal proceedings;
 - 2.3. his or her transfer is liable to prolong his or her detention; or
 - 2.4. there are other circumstances preventing his or her transfer to the requesting state.
3. The transit of a detained person through the territory of the Republic of Kosovo may be permitted if the requesting state submits to the Ministry a request for permission, accompanied by the necessary documents.

**SUB-CHAPTER IV
OTHER FORMS OF COOPERATION**

Article 97

General provisions

1. Assistance under this Chapter shall be provided in accordance with the Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters of 1959, unless otherwise provided by national law.

2. The Chief State Prosecutor's Office is competent to decide on requests under this Chapter.

Article 98 **Joint investigation teams**

1. The competent authorities of the Republic of Kosovo, by mutual agreement with one or more states, may form joint investigation teams for a specific purpose and for a limited period of time, for the purpose of carrying out criminal investigations in one or more of the states forming the team. The period may be extended by agreement between the parties.
2. Joint investigation teams may in particular be formed where:
 - 2.1. the investigation of a criminal offence in a state involves difficult and demanding investigations which are related to other states;
 - 2.2. several states are conducting investigations into criminal offences and the circumstances require coordinated and joint action among the states involved.
3. Joint investigation teams may be formed at the request of any of the states involved.
4. Members of the joint investigation team, which have been seconded to the team by their states, may be allowed to conduct investigations in the territory of the Republic of Kosovo, under the leadership of the Kosovo team member, in accordance with the agreement between the Republic of Kosovo and seconding states.
5. Members of the joint investigation team shall be entitled to be present at any investigative measure taken in the Republic of Kosovo. However the leader of the team may, for particular reasons, in accordance with national law, decide otherwise.
6. National members of a joint investigation team may, in accordance with national law and within the limits of their competence, provide the team with information available in the Republic of Kosovo for the purpose of the criminal investigations conducted by the team.
7. Where a joint investigation team needs investigative measures to be taken in the Republic of Kosovo, national members seconded to the team may request the national competent authorities to take those measures. Those measures shall be considered in the Republic of Kosovo under the conditions which would apply if they were requested in national investigations.
8. Information lawfully obtained by a national member of a joint investigation team, which is not otherwise available to national authorities, may be used for the following purposes:
 - 8.1. for the purposes for which the team has been formed;
 - 8.2. subject to the prior consent of the state where the information became available, for detecting, investigation and prosecuting other criminal offences;
 - 8.3. for preventing an immediate and serious threat to public security;
 - 8.4. for other purposes to the extent that this is agreed between the states forming the team.
9. Persons other than representatives of the competent authorities of the states

Law No. 04/L-31 on international legal cooperation in criminal matters forming the joint investigation team may be allowed to take part in the activities of the team. The rights conferred to the members of the team by virtue of this Article shall not apply to these persons unless it has been expressly agreed otherwise.

Article 99
Covert investigations

The authorities of the Republic of Kosovo, upon request, can offer assistance to another state in order to conduct investigations by officers acting under covert or false identity, in accordance with national law.

SUB - CHAPTER V
JUDICIAL RECORDS AND OTHER DATA

Article 100
Requests for extracts of criminal records

Upon the request of another state, extracts from and information on criminal records shall be transmitted to that state, provided that the information is needed in the requesting state in a criminal matter.

Article 101
Providing information from criminal records

The Ministry may inform other states of criminal sentences imposed against the nationals of those states which have been entered in the criminal record, without a request to that effect. When a person is a national of two or more states, the information may be provided to each of these states.

CHAPTER VII
TRANSITIONAL AND FINAL PROVISIONS

Article 102
Expenses

1. Expenses pertaining to extraditions from the Republic of Kosovo to foreign states incurred outside the territory of the Republic of Kosovo shall be borne by the requesting states.
2. Expenditures pertaining to extraditions from other states to the Republic of Kosovo shall be provided for by the budget of the Republic of Kosovo.
3. Pursuant to this Law, other expenses incurred during the provision of international legal cooperation incurred within the territory of the Republic of Kosovo shall be supported from the budget of the Republic of Kosovo.

Article 103
Protection of personal data

1. Pursuant to this Law, personal data transmitted to the Republic of Kosovo for the execution of a request may be used by national judicial authorities only:
 - 1.1. for the purpose of proceedings provided for by this law;
 - 1.2. for other judicial and administrative proceedings that are directly related with the procedures mentioned in paragraph 1. of this Article;
 - 1.3. for preventing a serious danger to public security.
2. Pursuant to this Law, transfer or disclosure of personal data by the Republic of Kosovo to another state in order to execute a request should be in full accordance with the Law on Protection of Personal Data.

Article 104
Authority to issue secondary legislation

The Ministry of Justice may issue secondary legislation for the implementation of this Law.

Article 105
Repealing provisions

With the entry into force of this Law, the Law no. 04/L-031 on International Legal Cooperation in Criminal Matters shall cease to apply.

Article 106
Entry into force

This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-213
31 July 2013

Promulgated by Decree No.DL-047-2013, dated 19.08.2013, President of the Republic of Kosovo Atifete Jahjaga.

**OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 33 / 2
SEPTEMBER 2013, PRISTINA**

**LAW No. 04/L-218
ON PREVENTING AND COMBATING TRAFFICKING IN HUMAN BEINGS
AND PROTECTING VICTIMS OF TRAFFICKING**

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Assembly of Republic of Kosovo,

Based on Articles Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**THE LAW ON PREVENTING AND COMBATING TRAFFICKING IN
HUMAN BEINGS AND PROTECTING VICTIMS OF TRAFFICKING**

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose**

1. The Purpose of this law is to establish legal provisions through which competent local authorities are given rights, obligations and responsibilities for:
 - 1.1. preventing and combating trafficking in human beings in all its forms;
 - 1.2. protection of victims of trafficking, including ensuring the rights, such as legal aid, medical assistance, psycho-social support, compensation and other rights for all persons who are presumed or identified as trafficked persons, regardless of their sex, gender, age, marital status, language, mental or physical disability, sexual orientation, political affiliation or conviction, ethnic origin, nationality, religion or belief, race, social origin, property, birth or any other status, through a human rights based approach, in full compliance with international human rights instruments and standards.
 - 1.3. national and international cooperation for the purpose of preventing and

combating trafficking in human beings, and ensuring assistance and protection to victims of trafficking.

- 1.4. nothing in this law shall affect the rights, obligations and responsibilities of authorities and individuals under international law, including international humanitarian law and international human rights law and, in particular, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, the principle of non-refoulement and the right to seek asylum as contained therein.

Article 2 **Scope**

Provisions of this Law shall apply to all forms of trafficking in human beings, whether national or trans-national, and regardless if it is linked or not to organized crime, including offences committed for the purpose of victims' exploitation, so far as they contain elements of trafficking in human beings.

Article 3 **Definitions**

1. For the purpose of implementing this Law, terms and abbreviations used in this Law shall have the following meanings:
 - 1.1. **Trafficking in human** – recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
 - 1.2. **Child** – a person who is under the age of eighteen (18) years.
 - 1.3. **Vulnerable victim** – a child, a physically or mentally handicapped person, a person suffering from diminished capacity, a pregnant woman, or a domestic partner as determined by the Criminal Code of the Republic of Kosovo;
 - 1.4. **Forced labour** – all work or service which is extracted from any person under the menace of any penalty and for which the said persons has not offered him/herself voluntarily.
 - 1.5. **Illegal adoption** - any institution or practice whereby a child, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.
 - 1.6. **Forced marriage** – a servile or fictitious form of marriage of persons, so far as they contain constituent elements of trafficking in human beings, as provided for in the Criminal Code of Kosovo. In case of a child, the child's consent shall be considered irrelevant for any of the above actions.
 - 1.7. **Victim of trafficking** – a person subjected to an act or practice described in paragraph 1., sub-paragraph 1.1. of this Article.

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- 1.8. **Exploitation of the victims** – include, but not be limited to prostitution of others, pornography or other forms of sexual exploitation, begging, forced or compulsory labour or services, slavery or practices similar to slavery, servitude or the removal of organs or tissue.”
 - 1.9. **Authorities** – any state institution in accordance to Article 6 of this Law.
 - 1.10. **Government** – the Government of the Republic of Kosovo;
 - 1.11. **NGO** – Non-Governmental Organizations as determined by the Law on Freedom of Association in Non-Governmental Organizations;
 - 1.12. **Reflection period** – the period made available to victims or witnesses of trafficking, to recover from the experience and make a decision whether or not to cooperate with the competent authorities.
 - 1.13. **National referral mechanism** – the collaboration framework through which state institutions fulfill the obligations to protect and promote the rights of victims of trafficking and to coordinate their efforts in a strategic partnership with civil society.
 - 1.14. **Commission** – the panel for receiving, reviewing and deciding on the application for compensation of victims of trafficking in human beings.
 - 1.15. **Legal Person** – any entity which, under the applicable law has legal personality, except public state bodies in the exercise of state authority, and international public organizations.
 - 1.16. **National Authority** – the national authority as determined in Article 7 of this Law;
 - 1.17. **Presumed victim** – a person who is presumed to be a victim of trafficking, but who has not formally been identified by the relevant authorities, or who has declined to be formally identified as such. A person presumed as trafficked is entitled to the same treatment as the identified victims from the beginning of the identification process.
2. The definitions contained in this Article, aim among others to identify types of abuse, and they do not criminalize the described conduct. The Criminal Code provides the legal ground for the criminalization of prohibited conduct.
 3. Other terms and abbreviations used in this Law, shall have the meaning of the terms used in relevant legislation in force.

Article 4

Basic principles on combating trafficking in human

1. Combating trafficking in human beings shall be carried out on the basis of the following principles:
 - 1.1. respect for human rights and freedoms, in particular for vulnerable victims;
 - 1.2. acknowledgment of trafficking in human beings as a crime affecting the fundamental human rights, dignity, liberty and integrity of human beings;
 - 1.3. inevitability of punishing traffickers in human beings;
 - 1.4. legality;
 - 1.5. free access to justice, access to free legal counseling and representation, including the application for compensation;
 - 1.6. free access to services and medical treatments for harms caused by the abuse of/or trafficking.

- 1.7. assistance and support for the victim are not conditional by the victim's willingness to cooperate in investigation, prosecution or trial;
- 1.8. ensuring security and a fair, unbiased attitude towards victims of trafficking;
- 1.9. holistic use of preventive measures: legal, socio-economic and international;
- 1.10. social partnerships, collaboration of authorities, non-governmental organizations and other representatives of civil society with international organizations;
- 1.11. proportionality between respect of fundamental rights of the victims of trafficking and conditions of criminal prosecution, in the manner that it does not violate the rights of the defendant;
- 1.12. ensure that all anti-trafficking activities take gender aspect, promotion of gender equality and empowerment of women and girl victims into account.
- 1.13. equal treatment of all forms and types of national and trans-national trafficking in human beings, whether or not related to organized crime;
- 1.14. cooperation of national authorities with institutions of other countries and international organizations in order to achieve the objectives of preventing and combating trafficking in human beings.
- 1.15. application of the provisions of this Law, especially the measures for protection of victims of, shall be granted without discrimination on any grounds, such as: gender, race, language, religion, political or other opinion, social or national origin, citizenship, association, belonging to an ethnic minority, etc.

Article 5

Elements of the offense of trafficking in humans beings

1. As determined by Article 171 of the Kosovo Criminal Code, elements of trafficking in human beings consist of:
 - 1.1. recruitment;
 - 1.2. transportation;
 - 1.3. transfer;
 - 1.4. harbouring or reception of persons, by means of the threat and use of force or other forms of coercion;
 - 1.5. abduction;
 - 1.6. fraud;
 - 1.7. deception;
 - 1.8. abuse of power or of a position of vulnerability, and
 - 1.9. giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for exploitation purposes.
2. Incitement, assistance or attempting to commit an offense referred to in this Law is punishable as well in accordance to the Criminal Code of the Republic of Kosovo.
3. When the conduct referred to in paragraph 1. of this Article involves a child, it shall be a punishable offence of trafficking in human beings, even if none of the means set forth in paragraph 1. of this Article has been used, in accordance to the Criminal Code of the Republic of Kosovo.
4. The consent of a victim of trafficking to the exploitation, whether intended or

Law No. 04/L-218 on preventing and combating trafficking in human beings and... actual, shall be irrelevant where any of the means set forth in paragraph 1. of this Article has been used against the victim, in accordance to the Criminal Code of the Republic of Kosovo.

CHAPTER II

AUTHORITIES FOR PREVENTING AND COMBATING TRAFFICKING IN HUMAN BEINGS AND PROTECTING VICTIMS OF TRAFFICKING

Article 6 **Authorities**

1. Competent authorities for preventing and combating trafficking in human beings and providing of assistance and protection of victims of trafficking are:
 - 1.1. Ministry of Internal Affairs;
 - 1.2. Kosovo Police;
 - 1.3. Kosovo Judicial Council;
 - 1.4. Kosovo Prosecutorial Council;
 - 1.5. Ministry of Justice;
 - 1.6. Ministry of Education, Science and Technology;
 - 1.7. Ministry of Local Governance Administration;
 - 1.8. Ministry of Culture, Youth and Sports;
 - 1.9. Ministry of Labour and Social Welfare;
 - 1.10. Ministry of Health;
 - 1.11. Ministry of Foreign Affairs;
 - 1.12. Ministry of Finance;
 - 1.13. Gender Equality Agency
 - 1.14. State Prosecutor;
 - 1.15. Courts;
 - 1.16. Office for Protection and assistance to victims,
 - 1.17. Municipalities, and
 - 1.18. Any state institution, and service provider within these institutions, which, under this Law or any other relevant Law, is authorized to deal with preventing and combating trafficking in human beings and providing assistance and protection of victims of trafficking.

Article 7 **National Authority against trafficking in human beings**

1. National Authority against trafficking in human beings (hereinafter referred to as the National Authority), is composed of authorities set on Article 6 of this Law and other relevant state institutions from different scopes, including representatives of the local governmental and non-governmental service providers.
2. National Authority shall describe within the National Strategy and Action Plan Against Trafficking in Persons, the Standard Operating Procedures for Victims of Trafficking, Minimum Standards of Care for Victims of Trafficking and all other relevant documents, the duties and responsibilities of each institution for

preventing and combating trafficking in human beings and victims' protection, in order to enable effective and efficient fight against trafficking in human beings and provide assistance and protection of victims of trafficking in Kosovo, as is defined within institution's legislative mandate.

3. Representatives of non-governmental organizations and international organizations that have their offices in Kosovo and are involved in activities for combating trafficking in human beings, as well as providing assistance and protection to victims of trafficking, may attend the meetings of the National Authority, in advisory capacity;
4. Organizational and coordination matters of the National Authority are ensured by the National Strategies Monitoring and Evaluation Secretariat, which operates under Ministry of Internal Affairs.
5. National Authority shall submit to the Government periodically, but not less than once per year, as well as upon request, a report on its activity. At any given time, central state institutions may request information from the National Authority on the state of observance of legislation on preventing and combating trafficking in human beings and protection of victims of trafficking and protection of victims of trafficking, as well as on implementation of the National Strategy and action plan against trafficking in human beings.
6. The Government shall enact sub-legal act on formal composition, powers, responsibilities and the manner of functioning of the National Authority.

Article 8

Appointment and Competencies of the National Anti-Trafficking Coordinator

1. The Government shall appoint a National Anti-Trafficking Coordinator (hereinafter referred to as the Coordinator).
2. The Coordinator shall chair the National Authority. The Coordinator shall regularly cooperate with authorities stipulated in Article 6 of this Law, and other law enforcement authorities, for the purpose of preventing and combating trafficking in human beings and protection of victims of trafficking.
3. With the support of the Secretariat National Strategies Monitoring and Evaluation Secretariat, which operates under Ministry of Internal Affairs, the Coordinator shall develop, coordinate and monitor the implementation of National Referral Mechanisms to ensure proper identification, referral, assistance and protection of victims of trafficking, including child victims, and to ensure that they receive the adequate assistance by protecting their human rights.
4. The Government shall ensure sufficient financial and human resources for the Coordinator, National Authority and Secretariat to carry out the following activities:
 - 4.1. coordinating the implementation of this Law, including drafting of administrative instructions, regulations, and other sub-legal acts to be endorsed by the Government;
 - 4.2. drafting and continuous implementation of the National Strategy and Action Plan, which shall contain a comprehensive package of measures for preventing and combating trafficking in human beings, as well as for coordinating and monitoring its implementation;

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- 4.3. promoting researches and determining procedures to analyze the degree, nature and new forms of both local and cross-border trafficking, as well as identification of best practices for preventing and combating trafficking in human beings and reintegration of victims of trafficking, including collection of information on the number of victims disaggregated according to gender and other data important to analyze the scale, nature and the form of trafficking;
 - 4.4. facilitating cooperation between authorities and various governmental stakeholders and among governmental and nongovernmental stakeholders, including labour inspectors, Kosovo Chamber of Commerce and other relevant parties of the labour market;
 - 4.5. facilitating cooperation between the countries of origin, transit and destination;
 - 4.6. acting as a focal point for national institutions and other state and non-state parties, as well as international bodies, in regards to Government's efforts against trafficking in human beings;
 - 4.7. ensuring that anti-trafficking measures are in line with existing norms and international human rights standards that are envisaged with the Constitution of the Republic of Kosovo and other relevant laws.
5. The National Coordinator will act as the National Reporter in order to carry out assessments of trends in trafficking in human and measure the results of anti-trafficking actions including the gathering of statistics in close cooperation with relevant civil society organisations active in this field.

Article 9

Preventing and combating of trafficking in human

1. Preventing, combating and protecting of victims of trafficking with human beings is carried out by all the authorities, including representatives of local governmental and non-governmental service providers, based on the respective legislation in force;
2. Authorities identify victims of trafficking when there are reasonable-grounds for believing that a certain person is a victim of trafficking;
3. Authorities should take necessary measures, such as education and training, with goals to reduce the demand that favors all forms of exploitations related to trafficking in human beings.
4. Authorities, in cooperation with the respective organizations and civil society actors take appropriate actions, including the internet, such as information and awareness-raising campaigns, research and education programs, aimed at raising awareness about trafficking in human beings and reducing the risk that different persons, especially children, and vulnerable groups becoming victims of trafficking in human beings.
5. Authorities will promote regular training for officials who might come in contact with victims or potential victims of trafficking in human beings, including front-line police officers, border guards, immigration officials, public prosecutors, judiciary members and court officials, labor inspectors, social care personnel of

children and health and consular staff, but depending on local circumstances, might also include other groups of public officials, who over the course of their work come across victims of trafficking with aim to enable them identification, referral and dignified treatment of trafficking in human beings.

6. Aiming at discouraging the demand, increase the efficiency of preventing and combating trafficking in human beings, authorities shall take necessary actions ensuring the utilization of services that are subject of exploitation are considered criminal offences in accordance with Criminal Code of the Republic of Kosovo.

CHAPTER III INVESTIGATION AND PROSECUTION

Article 10

Offenses related to trafficking in human beings and joinder of proceedings

1. In cases when criminal action contains one of the elements of the offense of trafficking in human beings from the Article 5 of this Law, such an offense shall be considered as an offense that is related to trafficking in human beings.
2. Victims of the offences from the paragraph 1. of this Article are considered victims of trafficking and as such they enjoy all the rights envisaged by this Law.
3. If the perpetrator, during the process of trafficking in human beings, with his/her actions simultaneously commits other offenses related to the offense of trafficking, he/she will be judged in association of the offenses in line with the provisions of the Criminal Code and Criminal Procedure Code of the Republic of Kosovo.
4. Aiming to preserve the course and integrity of the process for the offense of trafficking in human beings and all the actions related to the offense of trafficking, every time that evidences are associated, a joined proceeding will take place, in line with the provisions of the Criminal Procedure Code of the Republic of Kosovo.
5. In cases when for the sake of preserving the efficiency or other relevant reasons, if it is not possible to associate the procedure according to paragraph 4. of this Article, cases will be proceeded separately, in line with the provisions of the Criminal Procedure Code of Kosovo.
6. Issues regarding association or separation of the procedure, as well issues related to competence (jurisdiction) of the court for the acts according to this Law are settled in line with the Criminal Procedure Code.

Article 11

Investigation and prosecution

1. When necessary, investigation means envisaged by the Criminal Code Procedure, such as the ones used for organized crime or other grave offenses are put at disposal of law enforcement authorities for investigation or prosecution of offenses of trafficking in human beings and other offenses that contain elements of the offense of trafficking.
2. In order to have an effective investigation and prosecution of cases of trafficking in

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human beings in Kosovo, State Prosecution and Police can bring together joint investigative teams.

3. Law enforcement authorities and prosecutors identify and freeze, seize or confiscate assets used and wealth gained from the offense of trafficking in human beings, and any other illegal asset in line with Chapter VII of the Criminal Code.
4. Prosecution and investigation of offenses against trafficking in human beings does not depend on the reporting or accusations of a victim of trafficking, and the criminal procedure must continue even if the victim of trafficking withdraws his/her statement.
5. Courts and bodies for criminal prosecution recognize the measures for ensuring the rights and their physical safety to victims of trafficking in human beings, as set with the Criminal Procedure Code and the Law on Witness Protection, as well as other respective legislation in Kosovo.
6. Authorities organize adequate trainings for persons, units or services in charge that deal with investigation or criminal prosecution of actions of trafficking in human beings.

Article 12

Official identification of victims of trafficking

1. Official identification of victims of trafficking in human beings is done by the respective Police units, Prosecution, Victim Advocate and centers for social work based on Article 5 of this Law, when they have grounded doubt for believing that a certain person is a victim of trafficking, in line with the Standard Operating Procedures developed by the respective authorities.
2. Ministry of Justice in cooperation with respective authorities draft the indicators' list regarding trafficking in human beings, with aim to facilitate identification of victims by police, criminal, judicial and social authorities that might be in contact with the victims or potential victims of trafficking. Indicators' list is adopted by the Government of the Republic of Kosovo.
3. Upon proposal of the Ministry of Internal Affairs, the Ministry of Foreign Affairs and the Ministry of Labour and Social Welfare issue specific instructions for consular services, border police and labour inspectors with the aim of early identification of victims of trafficking.

Article 13

Non-liability of victims of trafficking

1. A victim of trafficking should not be arrested and cannot be criminally prosecuted for criminal and minor offences committed by him/her as a direct result of the crime of trafficking in human beings, including:
 - 1.1. illegal exit and entry of the trafficked person from/out the country;
 - 1.2. purchase or possession of false travel or identification documents that he/she took, or he/she was given, for the purpose of entering or exiting the country regarding the criminal act of trafficking in human beings;
 - 1.3. involvement of the victim in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.

2. Children that are victims of trafficking are not subject to procedures or legal sanctions for offenses related to their situation as victims of trafficking.

Article 14 **Liability of legal persons**

1. Legal persons are kept liable for offenses of trafficking in human beings, committed for their gain by one person, who acts either individually or as part of a body of the legal person, and who has a leading position under the legal person, based on the:
 - 1.1. competence to represent the legal person;
 - 1.2. authority to take decisions on behalf of the legal person;
 - 1.3. authority to exercise control within the legal person.
2. Legal persons are also held liable in the case when the lack of oversight or control by a person mentioned on paragraph 1. of this Article has made the act of trafficking in human beings possible, for benefit of that legal person by the part of a person under his/her authority.
3. According to paragraph 1. and 2. of this Article, liability of a legal person shall not prevent criminal proceedings against natural persons, who committed, incited or aided the trafficking in human beings.
4. Legal sanctions against legal persons on cases of trafficking in human beings will be applied in accordance with the Law on liability of legal persons' actions for offenses.

Article 15 **Treatment of victims of trafficking in human beings in criminal investigation and proceedings**

1. Victims of trafficking in human beings receive adequate protection based on the individual risk assessment.
2. In cases when issues related to offenses according to this Law are reviewed in the court, for persons identified as victims, the prosecutor and other authorized parties must request and the court allows application of the special investigation opportunity, in line with the Criminal Procedure Code. Statements will be recorded and they will be completely acceptable during the trial. Statements from this paragraph might be used for local victims and victims that are located outside of Kosovo.
3. Without prejudice to the rights to protection, and in accordance with individual assessment carried out by the authorities, victims receive special treatment that aims to prevent re-victimization, in particular for vulnerable victims, thus avoiding, for as much as it is possible, the following situations:
 - 3.1. unnecessary repetition of interviews during investigation, criminal prosecution or trial;
 - 3.2. visual contact (confrontation) between the victims and defendants while giving testimony such as interviews and indirect interrogations, through adequate means including appropriate communication technologies;
 - 3.3. giving testimony in open public session; and

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- 3.4. unnecessary interviewing regarding intimate relations of the victim while he/she was trafficked.

Article 16

Treatment of child victims of trafficking in human beings in criminal investigation and proceedings

1. Without prejudice to the rights to protection, and in accordance with individual assessment carried out by the authorities, child victims receive special treatment that aims to prevent re-victimization, thus avoiding, for as much as it is possible, the following situations:
 - 1.1. interviews with the child victims shall take place without unjustifiable delay after the facts have been reported to the competent authorities;
 - 1.2. interviews with child victims take place, in premises designed or adapted for that purpose;
 - 1.3. interviews with child victims are carried out, using child appropriate interviewing techniques by or through professionals trained for that purpose;
 - 1.4. if possible, the same officers conduct all interviews with the child victim;
 - 1.5. the number of interviews of the child victim is limited to one. The number of interviews can be more than one only for the purposes of exceptional and complex investigations. in line with the Justice Code for Minors, Criminal Code and Criminal Procedure Code of Republic of Kosovo;
 - 1.6. the victim child may be accompanied by an authorized representative, or when appropriate, an adult according to his/her choice, unless a reasoned decision has been made to the contrary in respect of that person.
2. Provisions from Article 15, paragraph 2. of this law, shall be applied *mutatis mutandis* while taking the statement of child victims.
3. Court – takes necessary measures to ensure that in criminal court proceedings of any of the offences of trafficking in human beings, when a child victim is involved, it might order that:
 - 3.1. hearing is held without the presence of the public; and
 - 3.2. child victim is heard in courtroom without being present, in particular, through use of appropriate communication technologies.

Article 17

Closing of premises or businesses involved or facilitating trafficking in human beings

In cases when there is grounded suspicion that a premise or business, acting legally or illegally, is involved in issues of trafficking in human beings, according to this Law and Criminal Procedure Code, the prosecutor demands from the judge immediate closure of the premises or the business.

Article 18
Protection of data/personal and privacy

1. Personal data, private life and identity of victims of trafficking are protected by the law enforcement authorities during the criminal procedure. The recording, maintenance, utilization of personal data of the victim of trafficking is carried out in line with conditions set by the Law on Protection of Personal Data.
2. In line with paragraph 1. of this Article, an agreement for exchange of information between authorities that deal with identification and assistance of the victim should be drafted, as well as with criminal investigation while fully respecting the protection of personal data and privacy and safety of the victims' integrity.
3. All information exchanged between the victim and a professional providing medical, psychological, legal or other assistance or services shall be confidential and shall not be exchanged with the third persons without victim's consent, in case of a child victim, without the consent of the legal representative.
4. Disclosure of data related to state protection measures for the victims of trafficking in human beings, persons that provide such protection, as well as persons that provide assistance in fighting trafficking in human beings is forbidden.
5. In case that the life or health of the victim of trafficking is threatened from the real danger, than, according to his/her request, based on the court decision taken upon prosecutor's request, he/she is given the possibility to change his/her name, surname, date and place of birth, in line with conditions set in the law for protection of personal data and respective legislation in force.
6. Disclosure of information regarding protection measures and confidential information of the victim of trafficking, as well as disclosure of information related to criminal prosecution and measures provided for the safety of participants in criminal procedure, is sentenced in line with the law for the protection of personal data and legislation on criminal and administrative acts.

Article 19
Ensuring safety of the victims or witnesses

1. Competent body as defined in the Law on Protection of Witnesses, takes all necessary measures to ensure that the victim or the witness of trafficking in human beings and his/her family is provided with appropriate protection in case that his/her security is at risk, including measures for his/her protection from intimidation and retaliation of traffickers and their collaborators.
2. When it is necessary for ensuring physical safety of the victim or the witness, based on the request of the victim or the witness, or in consultation with him/her, the competent body undertakes all necessary measures for his/her displacement within or outside of Kosovo in line with the sub-chapter H of the law for the protection of personal data and limitation of disclosing his/her name, address and other personal identification information to the extent it is possible.
3. Victims and witnesses of trafficking in human beings have access to existing witness protection programmes in line with Law on Witness Protection and the Criminal Procedure Code of Kosovo.

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4. In cases of appearing in front of court that deal with criminal actions according to this Law, the court might allow presumed victims or witnesses to present their evidence in cameras or through other electronic or special means, as deemed appropriate by the court.
5. A victim of trafficking or a witness outside of Kosovo that might be able to provide information while investigating cases related to trafficking in human beings might be given provisional authorization to remain in Kosovo and appropriate protection during these periods, and according to conditions that are considered appropriate by the institutions in charge.
6. Nothing in this law forbids the victims and their authorized representatives to claim compensation ordered by the court, according to the civil and legal procedure which is guaranteed by the laws in force.

CHAPTER IV ASSISTANCE AND PROTECTION OF VICTIMS OF TRAFFICKING IN HUMAN

Article 20

Assistance and protection of victims of trafficking in human

1. Victims of trafficking in human beings are given protection and assistance by the Authorities set in Article 6 of this Law, under their competencies and in line with this Law and other normative acts.
2. In line with Criminal Procedure Code, a victim of trafficking has the fundamental rights as it follows:
 - 2.1. right to information on the progress of criminal proceedings, as well as to all the rights pertained according to this Law and other legislation in force.
 - 2.2. right to be treated as a party in procedure;
 - 2.3. right of access to free of charge legal services;
 - 2.4. right to written or oral translation services over all the phases of procedure, in an understandable language to him/her;
 - 2.5. right to protect victims and witnesses, and in certain cases also for their families that are subjected to threats or intimidations in line with the Law on Witness Protection;
 - 2.6. right to privacy and confidentiality;
 - 2.7. right to enunciation of legal means, including legal assistance in this matter;
 - 2.8. right to provisional refuge;
 - 2.9. right to a reflection period of thirty (30) to ninety (90) days with purpose of recover.
 - 2.10. right to medical, psychological assistance and social welfare services, payment as it might be necessary for meeting their needs and in line with legislation in force;
 - 2.11. right to indemnity and compensation;
 - 2.12. right to participation in sessions on determination of the sentence or information regarding the sentence;
 - 2.13. right to information on release or escape of the defendant from detention centers.

Criminal laws

3. Rights from this Article are provided to victims prior, during and after completion of criminal procedures.
4. Assistance services envisaged by this Article are also at the disposal of victims repatriated from another country in the Republic of Kosovo and accompanying dependants of the victim.
5. Assistance and support to victims of trafficking is made available once the competent authorities have reasonable-grounds for believing that the person might have been subjected to an envisaged action of trafficking in human beings.
6. Assistance and support for the victim are not conditioned with the victim's willingness to cooperate during investigations, prosecutions or judgment.
7. Assistance and support measures are provided based on appropriate accord and information, taking into account special needs of children and other vulnerable victims.
8. Victims' Defender provides legal assistance and support to the victim of trafficking in human beings, since the very first contacts with the competent bodies. Victims' defender takes part in all procedural stages and represents the victim of trafficking in all trial sessions.
9. Each time when the competent body, international organizations and non-governmental organizations that are active in this field has reasonable reasons to believe that a person is victim of trafficking in human beings, then one such person is provided with protective measures and assistance determined by this Law.

Article 21

Rehabilitation of victims of trafficking

Rehabilitation of victims of trafficking in human beings is done with the purpose of their rehabilitation and return to normal life, including provision of medical, psychological, legal and material assistance.

Article 22

Reintegration of victims of trafficking

Reintegration of victims of trafficking in human beings is done after rehabilitation with the purpose of successful social inclusion of the victims of trafficking in human beings, into normal life and freedom, through provision of adequate access to educational services, vocational training, permanent and safe resident opportunities, as well as financial independence by providing different opportunities for (self)employment.

Article 23

Security and support of Centers and shelters for temporary housing of victims of trafficking

1. Government ensures support of Centers and provisional shelters as well as protection of victims of trafficking in human beings, with aim that the specialized centers or shelters to be able to provide conditions for accommodation, personal hygiene, food, urgent care and legal assistance, social, psychological and medical

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care, safety and protection, as well as assistance in mediation and in contacting family and relatives.

2. Centers and provisional shelters might be established by:
 - 2.1. Government upon the proposal of National Authority;
 - 2.2. National Authority according to the proposal of authorities set in Article 6 of this Law;
 - 2.3. Nongovernmental and international organizations upon approval of the National Authority;
 - 2.4. Authorities set in Article 6 of this Law, based on the agreement for joint activities and upon approval of the National Authority.
3. Costs related to joint activities of the centers and shelters will be covered by their joint budgets.
4. Arrangement of the organization and action of centers and shelters is approved by the founder, based on the respective legislation in force in Kosovo.
5. With aim to guarantee safety of centers and shelters that accommodate victims of trafficking in human beings, centers and shelters, as per their requests, are provided assistance and safety by the police.
6. Centers provide accommodation to victims of trafficking in human beings based on the assessed needs for period of thirty (30) up to ninety (90) days.
7. Accommodation timeline set in paragraph 6. of this Article might be extended:
 - 7.1. based on doctor's recommendation during the treatment period, but not longer than six (6) months;
 - 7.2. based on the request of legal prosecution bodies or the court's request during the criminal procedure period, and when the life and health of the victim is threatened by real danger, accommodation timeline might also be extended even after the completion of criminal procedure for a period that is considered necessary for protection of the victim, based on prosecutor's request;
 - 7.3. based on the request of the victim of trafficking in human beings, for a period of up to ninety (90) days.
8. Pregnant women, who are victims of trafficking, are entitled to accommodation the centre for a period of up to one (1) year, with possibility of extension.

Article 24

Vocational training of victims of trafficking

Authorities provide the vocational training for victims of trafficking in human beings, according to conditions set by the legislation in force, through provision of them free of charge services with priority on mediation in employment, information, professional counseling, professional orientation and professional training, as well as through providing them the right to take part in the professional training course funded by the unemployment programme. Beneficiaries of the determined services in this paragraph are victims of trafficking over sixteen (16) years of age.

Article 25

Information regarding the procedures for granting residence permits

From the moment that competent authorities are aware that a foreign person falls under the scope of implementation of this Law, they inform and assist the person in question regarding the opportunities he/she is provided in the residence field.

Article 26

Reflection period for victims and witnesses of trafficking in human

1. If it is considered that a foreigner, whose stay in Kosovo is not regular, is a victim or witness of trafficking in human beings, competent rule of law enforcement bodies on foreigners, offer him/her a reflection period, over which the person in question recovers, escapes from the influence and threats of perpetrators, irrespective to the fact if he/she wants to cooperate with respective authorities or not.
2. Duration, start date of the reflection period and conditions for completion of this period are regulated according to provisions of the applicable legislation on foreigners and provisions of this Law. Respect of the non-refoulement principle is taken into consideration.

Article 27

Services provided prior to the granting of residence permit

1. Kosovo Authorities provide foreign persons, who do not have sufficient financial means, with necessary living support and for access to emergent medical service, as well as, when possible, psychological assistance services to vulnerable persons.
2. In line with the respective legislation, authorities should take into consideration protection and safety needs of foreign persons.
3. As appropriate, authorities should provide interpreting services.
4. Provided that it is envisaged by the local legislation in force, authorities should provide free of charge legal services.

Article 28

Presence of victims and witnesses of trafficking in human beings

1. If the presence of a victim or of a witness of trafficking is necessary, investigative authorities inform authorities that implement the legislation on foreigners by setting the duration of reflection period.
2. Authorities implementing legislation on foreigners issue a short-residence permit for as long as the investigation of court procedure lasts.
3. In humanitarian cases, victims or witnesses of trafficking in human beings might be given additional protection, according to criteria envisaged in the legislation on foreigners.
4. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Article 29

Return of victims of trafficking from Kosovo

1. Safe return of victims of trafficking is organized if:
 - 1.1. Victims of trafficking want to return to their place of origin or resettle in another country;
 - 1.2. Kosovo Authorities provide the victims of trafficking with information regarding safe return at the beginning of the reflection period, throughout the period that he/she is given assistance and at the moment that the victim expresses his/her desire to return to his country of origin or resettle in a third-country.
2. Child victims or witnesses are not returned to their country of origin, if after the risk and safety assessment it is considered that their return would not be at their best interest.
3. Return of victims of trafficking is arranged according to the legislation on foreigners, international or bilateral agreements. Principle on non-refoulement should be taken into consideration.
 - 3.1. the procedures for return of victims of trafficking or presumed victims of trafficking must be in accordance with the Constitution of the Republic of Kosovo, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees.

Article 30

International cooperation in the field of return

1. In case of return of a foreign victim, hosting country and the country that the victim of trafficking is resident, or the country in which the victim has residence permit, should envisage special provisions regarding cooperation between them.
2. Upon a request filed by the requesting state, the requested state should facilitate return of the victim through verifying if the victim is its resident, has residence permit in its territory, and, if necessary, equip him/her with travel documents.
3. Repatriation and readmission of victims of trafficking in humans is carried out in line with legislation that regulates readmission issue in Kosovo, and in line with this Law.

Article 31

Providing assistance and protection to victims of trafficking

1. Providing assistance and protecting victims of trafficking is done by offering medical, psychological, social and legal assistance through respective specialized measures.
2. Victims of trafficking and presumed victims benefit free of charge medical services from respective health authorities, as regulated by the respective health legislation.
3. The State, through its authorities and organizations, takes immediate appropriate measures to identify and refer victims of trafficking in human beings in protection

and assistance services, enabling them a reflection period of thirty (30) to ninety (90) days. Over this period, application of any deportation order against such a person is prohibited.

4. Victims of trafficking in human beings are provided assistance and protection by the authorities set in Article 6 of this Law, under their competencies and in line with this Law and other normative acts.

Article 32

Providing assistance and protection to victims of trafficking in human beings by the Diplomatic Missions and Consular Offices of the Republic of Kosovo

1. On the occasion of providing assistance and protecting victims of trafficking in human beings, the Diplomatic Missions and Consular Offices of the Republic of Kosovo shall carry out these obligations:
 - 1.1. to carry out activities for defending the rights and interests of the citizens of the Republic of Kosovo that became victims of trafficking in human beings in the country of residence or, in countries they have accredited missions, and contribute to their repatriation in line with legislation of the Republic of Kosovo and legislation of the country of residence;
 - 1.2. in case of loss or impossibility of recovery of identity documents from the traffickers, to issue free of charge and in a prompt manner, jointly with the respective ministry, documents or other acts needed for repatriation in the Republic of Kosovo of citizens of the Republic of Kosovo who have become victims in trafficking in human beings;
 - 1.3. to disseminate informative materials to interested persons regarding the rights of victims of trafficking in human beings, in line with the legislation of Republic of Kosovo and the legislation of the country of residence;
 - 1.4. to provide information to authorities or judicial bodies of the country of residence or in the countries that they have accredited missions regarding the legislation of the Republic of Kosovo in the field of preventing and combating trafficking in human beings, regarding the rights of victims and their protection, including addresses of Centers for Protection and Assistance of Victims of Trafficking in Human Beings;
 - 1.5. heads of diplomatic missions and consular offices appoint a diplomat from their missions to be in charge of the application of procedures for repatriation procedures for Kosovo citizens that are victims of trafficking in human beings, for their protecting and assisting while residing in the country of transit or destination, as well as for cooperation in this field with bodies from the Republic of Kosovo.

Article 33

Role of the non-governmental sector

1. National Authority supports, encourages and directs local nongovernmental organizations and international organizations to support authorities from Article 6 of this Law, in preventing and combating trafficking in human beings, and protection of victims of trafficking.

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2. Local and international nongovernmental organizations provide respective services for victims of trafficking, either with their initiative, on behalf of the municipal directorate in the case of municipal services, or on behalf of the National Authority in case of services at the Kosovo level.
3. Each nongovernmental organization that provides services to victims of trafficking should be licensed by the respective institution, as well as adhere to regulations, guidance and procedures related to their activity, as determined by the respective institution.
4. Institutions within the national authority might allocate funds and provide any other material assistance, including premises, or councils for nongovernmental organizations that provide respective services (in rehabilitation or reintegration shelters) for victims of trafficking at the Kosovo level.
5. Due to inability to provide certain services for the victims, municipalities and central institutions might purchase services for victims of trafficking from local nongovernmental organizations, through respecting public procurement rules.
6. Local nongovernmental organizations and international organizations are obliged to respect the legislation in force and minimum standards for protecting victims of trafficking and always accept monitoring and inspection of quality of services provided for the victims.

CHAPTER V PREVENTING AND COMBATING TRAFFICKING IN CHILDREN

Article 34

General provisions on assistance and protection of child victims of trafficking in human beings

1. Children who are victims of trafficking benefit assistance and protection. The best interests of the child shall be taken into consideration during the implementation of the legislation.
2. Authorities responsible for social, health care and education, non-governmental organizations, other institutions, and civil society representatives, without any delay, contact law enforcement bodies when they have knowledge or suspect that a child is exploited or trafficked, or that he/she is exposed to the risk of exploitation or trafficking.

Article 35

Special principles for combating trafficking in children

1. In addition to the basic principles set out in Article 4 of this Law, specific principles set out below shall be considered in the activity of preventing and combating trafficking in children and the protection or assistance of children who are victims of such trafficking:
 - 1.1. strict observance of the rights of the child set out in the United Nations Convention on the Rights of the Child and Juvenile Justice Code of Kosovo, and any other relevant legislation

- 1.2. undertaking of measures to special protection and assistance of children who are victims of human trafficking;
- 1.3. whenever a child victim of trafficking is capable of forming his or her own views, giving due weight to the view of the child, in accordance with his/her age and maturity and his/her best interests;
- 1.4. informing a child who is a victim of human trafficking in a child appropriate manner on the state and the rights of his/her protection and assistance measures, available services, repatriation procedures, and the process of family reunification;
- 1.5. ensuring that the identity and any details that may enable the identification of child victim of trafficking, not to be made public under any circumstances.

Article 36 Presumption of age

When the age of the victim of human trafficking is not known but there are reasons to believe that the victim has not yet reached eighteen (18) years, it is presumed that the victim is a child, and, until the final ascertainment of age, the victim is treated as a child, by recognizing him/ her all the special protection measures stipulated in this Law and other normative acts.

Article 37 Repatriation of a child victim of trafficking in human beings

1. The child who is a victim of trafficking in human beings is repatriated to his / her country of origin, provided that, before returning to his/her parent, relative, or legal guardian have consented to the admission of the child in his/her care, or governmental authority or institution for the protection of children from their country of origin has consented that is able to take over responsibility for child's care and to provide him/ her adequate assistance and protection.
2. Obtaining a statement from the child by the criminal prosecution body or by the court on the manner of trafficking, does not prevent or delay family reunification or return the child to his / her country of origin, provided that this is in the best interest of a child.
3. When returning the child to his/her country of origin or his/her integration in the country of destination is not possible, or when these solutions are not in the best interest of the child, the authorities of both countries provide relocation of a child victim of trafficking in a third-country, with the consent of the latter.
4. Whenever a child victim of trafficking is capable of forming his or her own views, when deciding the Kosovo authorities shall give due weight to the view of the child, in accordance with his/her age and maturity and his/her best interests.
5. The child who is a victim of trafficking cannot be returned to his/her home or transferred to a third-country, if, after a risk and security assessment there are reasons to believe that the safety of the child or his/her family is at risk.
6. Children who are victims of trafficking in human beings who are foreign nationals

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or stateless persons have the right to get temporary residence permit which guarantees them the right on legal residence in the territory of Kosovo until reaching a sustainable solution on their return to their country of origin.

Article 38

Granting assistance and protection to child victims of trafficking in human beings

1. Authorities provide protection and assistance to children victims of trafficking in human beings as of the moment that there are reasons to believe that a child is a victim of trafficking until the identification, integration and full recovery of the child, regardless of their cooperation with the authorities, as defined in this Law.
2. Assistance and support for children victims of trafficking in their physical and psychosocial recovery are carried out upon individual assessment of specific circumstances of each child victim, taking into account the views, needs and child concerns with the purpose to find a long-term solution for the child.
3. Once identified as a presumed victim of trafficking in human beings, child immediately is sent to the competent services for protection, support and rehabilitation of children.
4. National Authority, the authorities defined in Article 6 of this Law, including law enforcement authorities, centers or shelters, non-governmental organizations, and other competent organizations if they have information about a child who is a victim of trafficking in human beings are obliged to immediately notify observation and guardianship institutions, in order to safeguard child's rights.
5. When a child victim of trafficking in human beings is deprived of parental care, supervision and custody institutions set as prescribed by Law, a legal guardian, which ensures that all decisions made are in the interest of the child, who gives statements on behalf of the child, and who participates with the child in all criminal proceedings and judicial actions, pending a solution in accordance with the best interests of the child.
6. The child who is identified as a victim of human trafficking shall be provided the opportunity of a reflection period of thirty (30) to ninety (90) days, so that he/she decides in person, by proxy or his legal guardian if he/she shall testify against the trafficker.
7. In the case of child victims of trafficking accommodation in centers or shelters, they shall be accommodated separately from adults.
8. Child victims of trafficking in human beings are entitled to accommodation in the centre for a period of up to six (6) months or for the duration of the legal proceedings.
9. All institutions or authorities or organizations whose activity is related to children who are victims of trafficking in human beings establish specific practices and programs for the identification, referral, protection and assistance, while at the same time preserve the confidentiality of information that has to do with the personal data and the child's status as a victim.
10. Child victims of trafficking in human beings and children of the victims are guaranteed the right to continue their education in state educational institutions in accordance with the conditions laid down in the Law on Education.

11. When children victims of trafficking in human beings are left without parental care or when they do not know the whereabouts of their parents, they are provided opportunity to urgently search for their family supervisory institution or guardian, as defined by the relevant legislation.
12. Child victims who suffered from trafficking in human beings are entitled to long-term care and protection until their full recovery. Children deprived of their family environment are entitled to alternative care similar to that family or community.

CHAPTER VI COMPENSATION OF VICTIMS OF TRAFFICKING

Article 39 Types of compensation

1. Victims of trafficking, including child victims, whenever possible, receive compensation in order to be re-integrated and to have full recovery. Procedures for the acquisition and implementation of compensation should be accessible to children.
2. Compensation includes:
 - 2.1. compensation by the perpetrator who is ordered by the court;
 - 2.2. damages which are ordered to be paid through civil proceedings; and
 - 2.3. legal Act for Compensation of victims of trafficking.

Article 40 Court ordered restitution

1. Compensation ordered by the court is subject to the provisions of the Kosovo Criminal Procedure Code.
2. Courts ensure that orders for compensation are implemented efficiently and prioritize them in comparison to other payments such as fines.

Article 41 Right to initiate civil action

1. The victim of trafficking in human beings has the right to initiate civil proceedings to claim compensation for material, physical and emotional harms that are caused to him/her as a result of the actions defined as offences by this Law, if he/she could not exercise this right in criminal procedure.
2. The right to file civil claim for compensation for material, physical and emotional harm is not affected by the existence of criminal proceedings relating to the same actions from which the civil claim derives from.
3. Absence of the victim during the procedure does not impede the court to order payment of compensation from this Article.

Article 42
State compensation

1. Compensation of victims of trafficking in persons by the State shall be regulated by a respective legal act on compensation of all victims of crime.
2. In accordance with the Criminal Procedure Code, when compensation is not completely possible from other sources, the state contributes to compensate victims of trafficking or a family member of the child victim of trafficking in human beings or dependants of the victim who died as a result of such crime.
3. Government of Kosovo shall ensure that within the respective legal act for compensation of victims of crime also foresees compensation for victims of trafficking in human beings.
4. Compensation is given as:
 - 4.1. additional compensation if the defendant only partially compensates the victim;
 - 4.2. full compensation in cases of inability for full payment by the defendant; or
 - 4.3. full compensation when the defendant is not identified, prosecuted or convicted. In this case the respective legal act for compensation of victims of trafficking remains as the sole manner of reparation for the victims.
5. Immigration status or return of the victim to his/her place of origin shall not prevent the certain institution to order the payment of compensation according to this Law.
6. Compensation covers compensation for material, physical and emotional harm.
7. Upon proposal of the National Authority, the Government issues the decision on establishment of the Commission for admission, revision and settlement of compensation claims for victims of trafficking in human beings.
8. Government ensures that main authorities liable according to this Law are represented in the Commission for admission, revision and settlement of compensation claims.
9. Government of Kosovo issues a sub legal act for Commission's functioning by determining its competencies, as well as criteria and procedures for issuing compensation from this Fund, including but not limited to:
 - 9.1. circumstances under which the compensation payment might be implemented;
 - 9.2. the basis upon which the compensation and the amount of compensation that should be paid, taking into account any compensation or amount received by other persons;
 - 9.3. application procedure for compensation payment; and
 - 9.4. procedure for revision of application and appeals against the decisions related to compensation requests.
10. Commission ensures that victims of trafficking have the opportunity to apply for compensation payment from this Article even in the cases when the perpetrator is not known, detained or convicted.

Article 43
Compensation of child victims

1. Child victims are entitled to compensation.
2. Claims for child compensation is done as determined by the respective legislation in force.
3. Access to compensation of the child victim of trafficking is regulated in accordance with the legislation in force.

Article 44
Claim for state compensation

1. Compensation claim is done within deadlines set by the Criminal Procedure Code.
2. Compensation is refused due to the finding of the involvement of the victim or claimant in organized crime or because of membership in the organization, which is involved in crimes of violence.
3. In order to avoid double compensation, the Commission may reduce the compensation provided or require the return of any compensation amount received by a person as compensation for injury or death, if it is compensated by the offender, insurance company or if compensation is made from any other source.

CHAPTER VII
COOPERATION

Article 45
Cooperation between authorities

1. Law enforcement authorities, immigration, labour and other relevant authorities, as needed, cooperate with each other to prevent and prosecute trafficking crimes and to protect victims of trafficking, without prejudice to the right of victims' privacy, exchanging and sharing information and taking part into training programs, among others, with the purpose to:
 - 1.1. identify victims and traffickers including identification documents using while crossing the border for the purpose of trafficking in human beings;
 - 1.2. identify ways and methods used by criminal groups for the purpose of trafficking in human beings;
 - 1.3. identify best practices for all aspects of prevention and combating trafficking in human beings;
 - 1.4. provide assistance and protection to victims and witnesses.
2. To develop and implement practices, programs and measures for preventing and combating of trafficking in human beings and provision of assistance and protection to victims of trafficking, as needed, authorities cooperate with nongovernmental organizations, other civil society institutions and international organizations.
3. If Kosovo Police or State Prosecutor have information available or reasonable grounds for believing that the life, freedom and physical integrity of a person,

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presumed victim of trafficking, is in danger on the territory of another country, in such cases, authorities exchange information without delay to the country in question in order to take appropriate protection measures.

4. Authorities are obliged to strengthen their cooperation in search of missing persons, in particular the missing children, if the information available makes them believe that he/she is a victim of trafficking in human beings.
5. In order to effectively fight trafficking in human beings and to increase interstate cooperation, the institution liable under the laws of Kosovo, will sign bilateral or multilateral agreements and treaties with other countries.
6. In order to increase the efficiency of activities to prevent and fight trafficking in human beings, and their protection, the authorities set forth in Article 6 of this Law engage separately or in combination with each other for such activities.
7. In carrying out the activities for the prevention of trafficking in human beings, the authorities cooperate among themselves for the purpose of exchange of experts, conducting joint activities for an early identification and questioning of victims of trafficking, implementation of socio-economic initiatives, identification, arrest and conviction of persons who deal with human trafficking, and through other activities in this area.

CHAPTER VIII TRANSITIONAL PROVISIONS

Article 46

All evidence obtained in cases of trafficking in human beings before the adoption of this Law shall be considered acceptable in accordance with the procedures applicable in the time of obtaining of evidence.

Article 47 Abrogation

With the entry into force of this Law, UNMIK Regulation No. 2001/4 on the Prohibition of Trafficking in Persons in Kosovo and Administrative Order No. 2005/3 for the implementation of UNMIK Regulation no.2001/4 shall be abrogated.

Article 48 Application

1. Liable for implementation of this Law are all competent authorities referred to in Article 6 of this Law, as well as other national and international institutions that are interested in helping the fight against trafficking in human beings.
2. State institutions, each service provider under these institutions, NGOs and international organizations, are obliged to implement the National Strategy and Action Plan against Trafficking in human beings, Standard Operating Procedures, Long-Term Strategy for Reintegration of Victims of Trafficking, Minimum Standards of care for Victims of Trafficking and other respective acts promulgated

Criminal laws

by competent authorities that treat prevention and fight against trafficking in human beings and protection of victims of trafficking.

3. The rights of a victim of trafficking or a presumed victim of trafficking who requests, or might reasonably be expected to request asylum or any form of subsidiary protection provided for in the Kosovo Law on Asylum, shall always be guaranteed in accordance with the provisions of that Law.
4. Government may issue decisions or other sub-legal acts to implement of this Law.

Article 49

Issuance of sub-legal acts

Sub-legal acts for the implementation of this Law shall be issued within six (6) months from the entry into force of this Law.

Article 50

Entry into force

This law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-218

31 July 2013

Promulgated by Decree No.DL-043-2013, dated 19.08.2013, President of the Republic of Kosovo Atifete Jahjaga.

**OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA / No. 34 / 4
SEPTEMBER 2013, PRISTINA**

**LAW No. 04/L-209
ON AMNESTY**

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Assembly of Republic of Kosovo,

Based on Article 65 (1 and 15) of the Constitution of the Republic of Kosovo,

Approves

LAW ON AMNESTY

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose and the scope**

This law regulates the conditions and the procedure under which amnesty can be granted for persons who have been convicted of certain specified criminal offences, who are under prosecution for such criminal offences, or could be subject to prosecution for such criminal offences committed prior to June 20, 2013 within the territory which now constitutes the Republic of Kosovo.

**Article 2
Amnesty**

1. All perpetrators of offenses listed in Article 3 of this Law that were committed before 20 June 2013 shall be granted a complete exemption from criminal prosecution or from the execution of punishment for such offenses, in accordance with the terms and conditions of Article 3 of this law.
2. Amnesty may be provided under this law only in accordance with the procedures set in Chapter III of this law.

CHAPTER II CONDITIONS FOR AMNESTY

Article 3

Conditions on granting Amnesty from criminal prosecution and complete execution of the punishment

1. The perpetrators of the following criminal offences are completely exempted from criminal prosecution or execution of punishment for the following criminal offences:
 - 1.1. Criminal offences foreseen with the Criminal Code of the Republic of Kosovo (Official Gazette of the Republic of Kosovo no. 19/13 July 2012);
 - 1.1.1. Assault on the Constitutional order of the Republic of Kosovo (Article 121), except in cases when committing this criminal offence has resulted in another criminal offence for which amnesty is not granted;
 - 1.1.2. Armed rebellion (Article 122);
 - 1.1.3. Endangering territorial integrity of the Republic of Kosovo (Article 125);
 - 1.1.4. Endangering the constitutional order by destroying or damaging public installations and facilities (Article 129);
 - 1.1.5. Espionage (Article 131);
 - 1.1.6. Alliance for anti-constitutional actions (Article 134);
 - 1.1.7. Unauthorized border or boundary crossing (Article 146, paragraphs 1, 2, 3.1 and 3.3);
 - 1.1.8. Inciting national, racial, religious or ethnic hatred, discord or intolerance (Article 147);
 - 1.1.9. Unlawful exercise of medical or pharmaceutical activity (Article 262, paragraph 1);
 - 1.1.10. Unauthorized ownership, control or possession of weapons (Article 374);
 - 1.1.11. Failure to report criminal offences or perpetrators (Article 386, only in relation to the failure to report the criminal offences for which the amnesty is granted under this Article);
 - 1.1.12. Providing assistance to perpetrators after the commission of criminal offenses (Article 388, only in relation to providing assistance to perpetrators after the commission of the criminal offences for which the amnesty is granted under this Article);
 - 1.1.13. Call for resistance (Article 411), except in cases when commission of this criminal offense has resulted in commission of another criminal offense. The perpetrators of the following criminal offenses committed with the aim of committing the criminal offence of call for resistance, are also granted amnesty from criminal prosecution or execution of punishment:
 - 1.1.13.1. Threat to a candidate (Article 211);
 - 1.1.13.2. Preventing exercise of the right to vote (Article 212);

- 1.1.13.3. Misuse of economic authorizations (Article 290, subparagraphs 1.1, 1.2, 1.3 and 1.4 of paragraph 1.);
- 1.1.13.4. Prohibited trade (Article 305);
- 1.1.13.5. Tax evasion (Article 313);
- 1.1.13.6. Smuggling of goods (Article 317, paragraphs 1. and 2.);
- 1.1.13.7. Avoiding payment of mandatory custom fees (Article 318);
- 1.1.13.8. Destroying, damaging or removing public installations (Article 366, paragraphs 1. and 2.);
- 1.1.13.9. Endangering public traffic by dangerous acts or means (Article 380, paragraphs 1., 2. and 5.);
- 1.1.13.10. Obstructing official persons in performing official duties (Article 409, paragraphs 1., 2. and 3.);
- 1.1.13.11. Attacking official persons performing official duties (Article 410, paragraph 1.) except in cases when commission of this criminal offense has resulted in grievous bodily injury or death; and
- 1.1.13.12. Criminal provisions under the Customs and Excise Code of Kosovo, as follows:
 - 1.1.13.12.1. Impeding movement of a Customs Vehicle (Article 296);
 - 1.1.13.12.2. Making an Untrue Declaration (Article 297);
 - 1.1.13.12.3. Fraudulent Evasion of Import Duty and Excise Tax (Article 298);
 - 1.1.13.12.4. Fraudulent Evasion of Prohibitions and Restrictions on Goods (Article 299);
 - 1.1.13.12.5. Criminal Offences in relation to Excise Products (Article 300).
- 1.1.14. Participating in a crowd committing criminal offense and hooliganism (Article 412), except in cases when commission of this criminal offense has resulted in grievous bodily injury or death.
- 1.2. Criminal offences foreseen by Criminal Code of Kosovo (UNMIK Regulation no. 2003/25 of the date 6 July 2003, Official Gazette of Kosovo no. 2003/25) and the UNMIK Regulation nr. 2004/19 on Amending the Provisional Criminal Code of Kosovo, as follows:
 - 1.2.1. Attack against Constitutional order of Kosovo (Article 108);
 - 1.2.2. Unauthorized border or boundary crossing (Article 114 paragraphs 1. and 2., subparagraphs 3.1, 3.3 and paragraph 4.);
 - 1.2.3. Inciting national, racial, religious or ethnic hatred, discord or intolerance (Article 115);
 - 1.2.4. Unlawful exercise of medical activity (Article 221, paragraph 1.);
 - 1.2.5. Unauthorized ownership, control or possession of weapons (Article 328, paragraph 2.); and ownership, control, possession or use of weapons if he or she is not the holder of a valid weapon authorization card”, (Article 8.6 regarding the Article 8.2 of

UNMIK Regulation no. 2001/7 of the date 21 February 2001, Official Gazette of Republic of Kosovo no.2003/7).

- 1.2.6. Failure to report a criminal offence or its perpetrator (Article 303, only in relation to the criminal offences granted amnesty for under this law);
- 1.2.7. Providing assistance to perpetrators after the commission of criminal offences (Article 305, only in relation to the criminal offences granted amnesty for under this law);
- 1.2.8. Call for resistance (Article 319) except in cases when commission of this criminal offense has resulted in commission of another criminal offense. The perpetrators of the following criminal offenses bellow committed with the purpose of committing the criminal offence of call for resistance, are also granted amnesty from criminal prosecution and execution of punishment:
 - 1.2.8.1. Misuse of economic authorizations (Article 236, paragraph 1., subparagraphs 1.1; 1.2; 1.3 and 1.4);
 - 1.2.8.2. Prohibited trade (Article 246);
 - 1.2.8.3. Tax evasion (Article 249);
 - 1.2.8.4. Smuggling of goods (Article 273);
 - 1.2.8.5. Destroying, damaging or removing public installations (Article 292 paragraphs 1. and 2.);
 - 1.2.8.6. Endangering public traffic by dangerous acts or means (Article 299 paragraphs 1. and 2.);
 - 1.2.8.7. Obstructing official persons in performing official duties (Article 316);
 - 1.2.8.8. Attacking official persons performing official duties (Article 317), except in cases when commission of this criminal offense has resulted in grievous bodily injury or death.
- 1.2.9. Participating in a crowd committing a criminal offence (Article 320), except in cases when commission of this criminal offense has resulted in grievous bodily injury or death.
- 1.3. Criminal offences foreseen with the Criminal Law of SAPK, Official Gazette nr. 20/77 regarding the UNMIK Regulations nr. 1999/24 and 2000/59 on the Applicab Law in Kosovo, as follows:
 - 1.3.1. Unlawful possession of weapons or explosive substances (Article 199, paragraph 1.);
 - 1.3.2. Failure to report on a criminal act or a perpetrator (Article 173, only in relation to the criminal offences granted amnesty for under this law);
 - 1.3.3. Aiding a perpetrator after he has committed the criminal act (Article 174, only in relation to the criminal offences granted amnesty for under this law);
 - 1.3.4. Inciting resistance (Article 186) except in cases when commission of this criminal offense has resulted in commission of another criminal for which amnesty is not granted under this law. The

perpetrators of the following criminal offenses bellow committed with the purpose of committing the criminal offence of call for resistance, are also granted amnesty from criminal prosecution and execution of punishment:

- 1.3.4.1. Abuse of authorisations in economy (Article 108 paragraphs 1., 2., 3., 4., and 5.);
- 1.3.4.2. Prohibited trade (Article 116);
- 1.3.4.3. Tax evasion (Article 123);
- 1.3.4.4. Destruction or damage of communal infrastructure devices (Article 158);
- 1.3.4.5. Endangering the public traffic by a dangerous act or means (Article 167);
- 1.3.4.6. Obstructing official persons in performing official duties (Article 183);
- 1.3.4.7. Attacking official persons performing official duties (Article 184 paragraphs 1., 2. and 4.); except in cases when commission of this criminal offense has resulted in grievous bodily injury or death.
- 1.3.5. Participation in a group that commits a criminal act (Article 200, except in cases when commission of this criminal offense has resulted in grievous bodily injury or death).
- 1.4. Criminal offences foreseen with the Criminal Code of the Socialist Federal Republic of Yugoslavia, Official Gazette No. 44 dated October 8, 1976:
 - 1.4.1. Endangering territorial integrity (Article 116);
 - 1.4.2. Espionage (Article 129);
 - 1.4.3. Inciting national, racial or religious hatred, discord or hostility (Article 134).

Article 4 **Exceptions from Amnesty**

1. Amnesty from any criminal offense within this law will not apply for:
 - 1.1. acts against international actors and international security forces in Kosovo. Members of the international security forces are always under the jurisdiction of the sending state.
 - 1.2. acts that constitute serious violations of international humanitarian law, including those offenses provided in Chapter XV of the Criminal Code of the Republic of Kosovo, Chapter XIV of the Provisional Criminal Code of Kosovo and Chapter XVI of the Criminal Code of the SFRY 1976.
 - 1.3. criminal offense that resulted in grievous bodily injury or death.

Article 5

The granting of amnesty shall not affect the rights of third parties which are based upon a sentence or a judgment.

CHAPTER III PROCEDURES FOR GRANTING AMNESTY

Article 6

Notifications on the condition of the convicted person covered by amnesty who is serving his punishment of imprisonment

1. Kosovo Correctional Service has the obligation to inform in a written form the court of first instance that has sentenced the convicted persons, who are serving a punishment of imprisonment covered by an amnesty, within seventy two (72) hours from the day this law comes into force.
2. Notification should include information about the start and end dates of their execution of the punishment of imprisonment.
3. The court *ex officio*, seven (7) days from receiving the above mentioned notification, shall issue a decision for execution of amnesty, whereas for the convicted person who has not started the execution of the punishment, the court shall decide for execution of amnesty in term of five (5) days from the day the request was received.
4. If a convicted person is serving his punishment in another country, the notification should be carried out through the Ministry of Justice.

Article 7

Decision for Granting Amnesty from execution of the punishment

1. The decision for granting amnesty shall be rendered, with EULEX assistance, by the first instance court, respectively the court that has subject matter and territorial jurisdiction to adjudicate the respective issue that is addressed to it:
 - 1.1. *ex officio*; or
 - 1.2. requested by the convicted person, the perpetrator, the State Prosecutor or the persons who according to Criminal Procedure Code may appeal against the judicial decision.
2. The Court renders a decision where it determines the part of the punishment that shall be waived, unless otherwise provided by this law.

Article 8

Decision on granting amnesty from criminal prosecution

1. Where a criminal report has been filed, an investigation initiated, or an indictment filed, the competent prosecutor shall render a decision to grant amnesty from criminal prosecution in accordance with this law.
2. Within thirty (30) days from the entry into force of this law, the competent prosecutor shall take a decision *ex officio* in accordance with the Criminal Procedure Code of the Republic of Kosovo to dismiss the criminal reports or terminate investigation for the criminal offences provided in this law.
3. Within sixty (60) days of the entry into force of this law, any final convictions for which amnesty applies under Article 3 of this law shall be erased from the criminal records in accordance with relevant applicable law.

Article 9
Finality of Confiscations

Regardless of the application of amnesty under this law to any criminal offence, if an object has been confiscated in accordance with the law during the criminal proceedings based in whole or in part on that criminal offence, the person receiving amnesty does not have a right to ask for the return of that confiscated object.

Article 10
Appeals against decisions for Amnesty

1. Against a decision for amnesty an appeal may be initiated in the Court of Appeals within seven (7) days from the day the decision was rendered. The Court of Appeals shall render a decision for the appeal three (3) days from the day that it received the request for appeal.
2. An appeal shall cease the execution of a decision.
3. If a convicted person due to amnesty will be completely exempted from the execution of the punishment of imprisonment, the court shall render a decision waiving the punishment of the convict, and the same shall be sent immediately to the Kosovo Correctional Service.

CHAPTER IV
TRANSITIONAL AND FINAL PROVISIONS

Article 11
Subsidiary Application

For implementation of amnesty *mutatis mutandis* provisions of Criminal Procedure Code No. 04/L-123 shall apply, unless provided otherwise with this law.

Article 12
Entry into Force

This Law shall enter into force fifteen (15) days following its publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-209
11 July 2013

Promulgated by Decree No.DL-051-2013, dated 17.09.2013, President of the Republic of Kosovo Atifete Jahjaga.

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