



REPUBLIKA E KOSOVËS – PRESIDENTI
REPUBLIC OF KOSOVO – THE PRESIDENT
REPUBLIKA KOSOVA – PREDSIEDNIK

DECREE FOR RATIFICATION OF THE INTERNATIONAL AGREEMENT

Pursuant to Article 18, item 2 of the Constitution of the Republic of Kosovo, Article 10 paragraph 4 of the Law no. 04/L-052, on International Agreements and Article 4, item 3 of the Law No. 03/L-004 on the Ministry of Foreign Affairs and Diplomatic Service, I hereby issue the following;

Decree

The ratification of the Agreement on Extradition, Mutual Legal Assistance in Criminal Matters and the Transfer of Sentenced Persons, between the Government of the Republic of Kosovo and the Council of Ministers of the Republic of Albania, signed in Tirana on November 06, 2012, and received in the Office of the President of the Republic of Kosovo on December 24, 2012.

Pursuant to Article 18, item 3 of the Constitution of the Republic of Kosovo, the ratified agreement shall be forwarded to the Parliament of the Republic of Kosovo as a notification.

The ratified agreement shall enter into force on the day of its publication in the Official Gazette.

Decree No: DMN-021-2012

Prishtina, December 27, 2012

Atifete Jahjaga
President of the Republic of Kosovo

**AGREEMENT
ON EXTRADITION
CONCLUDED BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF KOSOVO
AND
THE COUNCIL OF MINISTERS OF THE REPUBLIC OF ALBANIA**

The Government of the Republic of Kosovo and the Council of Ministers of the Republic of Albania, hereinafter referred to as "Parties",

Taking into account the desire for active participation in the cooperation process with European states,

With the desire of fostering judicial cooperation on criminal matters in the spirit of mutual respect of the principle of sovereignty and equality of rights,

Being aware that the establishment of mutual relations on extradition will contribute to the development and strengthening of more effective international cooperation in the fight against crime,

Recognising the need to facilitate extradition procedures to the highest level possible,

Taking into account that the legislation of both parties don't recognize capital punishment,

Agreed, as follows:

**CHAPTER I
GENERAL PRINCIPLES**

**Article 1
Obligation to Extradite**

1. Pursuant to the provisions and terms provided for by the present Agreement, the Parties hereby undertake to surrender to one-another all persons against which the competent authorities of the Requesting Party have initiated a criminal case procedure or are wanted by its authorities for the execution of a sentence or arrest warrant.
2. For the purposes of the present Agreement, the term "arrest warrant" shall mean any decision or order for the deprivation of liberty issued by a competent court authority as part of a criminal case procedure.

Article 2

Extraditable Offences

1. Extradition shall be granted for criminal offences fulfilling the terms below:
 - i) the criminal offence for which extradition is required is punishable by the legislation of both Parties with no less than one year of imprisonment;
 - ii) the length of the remaining part of the imposed sentence by a final court judgement is at least six months.

Article 3 Criminal Political Offences

1. Extradition shall not be granted if the criminal offence, for which a request has been made by the Requesting Party, is considered a political offence or an offence related to a criminal political offence.
2. The same rule shall be applied if the Requesting Party has reasonable grounds to believe that the extradition request for a common criminal offence is made for the purpose of prosecution or sentencing of a person on the grounds of race, religious belief, nationality or political opinion, or the position of the person may be denied for any of these reasons.
3. Murder or attempted murder of the head of state, head of government or the Minister of Foreign Affairs, when these are located in one of Parties, and the accompanying family members, as well as each representative or an official representative of one of the Parties, or each official or agent of an international organization with intergovernmental character, who, at the time and place of the commission of the offence against him, his office, his private residence or means of transport, enjoys, in accordance with international law, special protection from attack on the person, his freedom and dignity, as well as members of his family, shall not be considered a political offence for the purposes of this Agreement.
4. The present Article shall not deny any obligation that Parties have assumed or may assume on the basis of another multilateral international agreement.

Article 4 Criminal Military Offences

The present Agreement shall not serve as a basis for extradition for criminal military offences, which are considered as an offence on the basis of military law, but are not provided for as offences according to the criminal law.

Article 5 Criminal Pecuniary Offences

Extradition for criminal offences related to taxes, charges and customs duties or any other fiscal offence shall be granted by the Parties in compliance with the provisions of the present Agreement provided that the criminal offence is provided for by legislation of both Parties, regardless of its legal designation.

Article 6 Extradition of Nationals

1. Parties mutually undertake to surrender their nationals under prosecution by any of them for a criminal offence or that are wanted to serve a sentence or restriction in compliance with their domestic legislation.
2. Parties shall not use nationality as grounds for refusal to extradite.
3. Requests for extradition shall be made directly between their central authorities.

Article 7

The Place where the Criminal Offence was Committed

1. The Requested Party may refuse extradition of a person wanted for a criminal offence, which according to its jurisdiction is considered as partially or fully committed within its territory.
2. In case the criminal offence for which extradition is requested is committed outside the territory of the Requesting Party, extradition may be refused only if the jurisdiction of the Requested Party does not allow for the prosecution of such offence, which is committed outside its territory or does not allow extradition for such offences.

Article 8

Procedure for the Same Criminal Offence

The Requested Party may refuse the extradition of the wanted person if its competent authorities have initiated a procedure against him/her in relation to the criminal offence(s) for which the extradition is requested.

Article 9

Ne bis in idem

Extradition shall not be granted if a final judgment has been made by the competent authorities of the Requested Party against the wanted person for the criminal offence(s) for which extradition is requested. Extradition may not be granted if the competent authorities of the Requested Party have decided to terminate or not initiate the criminal procedure for the same offence(s).

Article 10

Statutory Limitation

Extradition shall not be allowed if under the law of both Parties, criminal prosecution or the execution of the punishment is prescribed.

Article 11

Trial in Absence

1. When one of the Parties requests the extradition of a person for the purpose of executing a sentence or arrest warrant imposed against the person in his/her absence, the Requested Party may refuse extradition if in their own assessment, the trial did not respect the minimum rights of defence. However, extradition shall be granted if the Requesting Party

guarantees that the extradited person shall be granted the right to retrial or revision of judgment imposed against him/her, if the person was trialled in absence.

2. When the Requested Party serves the notice to the requested person for extradition on the imposed judgement in absence, the Requesting Party shall not consider this communication as an official notice for the purposes of the criminal procedure in that state.

Article 12 Amnesty or Pardon

Extradition shall not be granted for a criminal offence, for which an amnesty or pardon has been declared in the Requested State.

Chapter II SURRENDER PROCEDURE

Article 13 Request and Supporting Documents

1. Parties shall submit a written request for extradition and other supporting documents for each case; in Albanian or Serbian language when the Ministry of Justice of the Republic of Albania addresses the Ministry of Justice of the Republic of Kosovo, and in Albanian language when the Ministry of Justice of the Republic of Kosovo addresses the Ministry of Justice of the Republic of Albania. However, communication through diplomatic channels between the Parties shall not be excluded.
2. The Request shall have the following documents attached:
 - i) the original or an authenticated copy of the judgement or arrest warrant;
 - ii) description of the offence, for which extradition is requested, time and location the offence was committed, and the legal classification of the offence;
 - iii) the text of the applicable legal provisions; and
 - iv) individual data and any other possible information that may serve to determine the identity and nationality of the person, for which the extradition request is made.

Article 14 Additional Information

If the information provided in support of the extradition request is not sufficient for the Requested Party to make a decision pursuant to the present Agreement, the Requested Party may ask for additional information and may set a deadline for its submission.

Article 15 Provisional Arrest

1. In case of urgency, the Requesting Party may ask for the provisional arrest of the wanted person. The Requested Party shall decide on the matter in compliance with its legislation.
2. The request for provisional arrest shall indicate the purpose of the extradition request and the existence of one of the documents listed in Article 13, paragraph 2 of the present

Agreement. Also, it shall indicate the criminal offence for which extradition is requested, time and location of the commitment of the offence, as well as a description of the wanted person, if possible.

3. The request for provisional arrest shall be made in writing, by fax or any other means of communication that confirm the receipt. The Requesting Party shall be informed without delay on the results of its request.
4. Provisional arrest may be terminated and the person released if within 18 days, from the day the person is arrested, the Requested Party does not receive the extradition request and the documents listed in Article 13 of the present Agreement. In no case shall the provisional arrest exceed the period of 40 days, as of the day of arrest. The possibility of the release on remand shall not be excluded at any time; nevertheless, the Requested Party shall undertake all necessary measures to prevent the escape of the wanted person.
5. Release shall not exclude the possibility of repatriation if the extradition request was received later.

Article 16 Competing Requests

If extradition is requested by one of the Parties, but at the same time by one or more other states for the same or different criminal offence(s), the Requested Party shall make a decision on the basis of the circumstances and the gravity of the offence, the place the offence is committed, respective dates of requests, the nationality of the wanted person and the possibility of delayed extradition to one of the requesting states.

Article 17 Surrender of the Person

1. The Requested Party shall inform the Requesting Party, through communication means listed in Article 13, paragraph 1, on its decision related to extradition.
2. Decision refusing fully or partially the extradition shall be justified at all cases.
3. If extradition is granted, the Requested Party shall inform the Requesting Party for the location, date of surrender and duration of the arrest of person to be extradited.
4. If due to circumstances beyond one's control the Party is not able to surrender or receive the person to be extradited, then one shall inform the other Party. Both Parties shall set a new date for surrender, and the provisions of paragraph 5 of the present Article shall be applied.
5. If, pursuant to provisions of paragraph 4 of the present Article, the wanted person is not surrendered in the envisaged date, he/she may be released after 30 days. The requesting Party may refuse his extradition for the same criminal offense.

Article 18 Postponed or Conditional Surrender

1. Once reaching the decision, the Requested Party may decide to postpone the surrender of the wanted person for the purpose of conducting the criminal procedure against him in the same state or in case the person is already sentenced, it may postpone its surrender for

the purpose of enforcing the sentence in its territory for a criminal offence that is different from the one for which extradition is requested.

2. Instead of postponing surrender, the Requested Party may decide for a temporary surrender of the wanted person to the Requesting State in compliance with the terms to be defined by a mutual agreement between the Parties.

Article 19 Surrender of Items

1. The Requested Party shall, upon the request of the Requesting Party and in compliance with its domestic legislation, confiscate and surrender items that:
 - i) may serve as evidence; or
 - ii) gained as a result of the criminal offence and which at the time of arrest was found in possession of the wanted person or was later discovered.
2. Items listed in paragraph 1 of the present Article shall be surrendered even if the granted extradition cannot be executed due to the death or escape of the person wanted.
3. If the items listed in paragraph 1 of the present Article were subject of sequestration or confiscation for the purposes of a court procedure in the Requested Party, then the latter may decide to keep the items temporarily until the court procedure is terminated or may decide to surrender the items to the Requesting Party provided that they are returned.
4. Any claim that the Requesting Party or any other third person may have over the abovementioned items shall not be denied. In such cases, the items shall be returned to the Requested Party after the termination of trial and without delay.

Article 20 Applicable Procedure

Procedures related to the extradition or provisional arrest shall be regulated with the legislation of the Requested Party unless otherwise provided for by the present Agreement.

CHAPTER III THE EFFECT OF SURRENDER

Article 21 Rule of Speciality

1. The extradited person shall not be investigated, sentenced or arrested for the purpose of enforcing a sentence or arrest warrant for a criminal offence committed prior to his surrender apart from the one for which he was extradited. Also, his liberty shall not be restricted unless:
 - i) the Party that surrendered the person gives its consent. The request for consent shall be submitted with supporting documents provided for by Article 13 of the present Agreement and the minutes containing the statement of the extradited person for the respective criminal offence. The consent shall be given in cases when the criminal offence falls within the scope of the present Agreement;
 - ii) The person did not leave the territory of the Requesting Party within 45 days from its final release after having the opportunity to do so, or returned to that territory after leaving it.

2. The Requesting Party may undertake all necessary measures to deport this person from its territory or measures to prevent legal effects of statutory limitation, including the procedures of trial in absence.
3. In case the legal classification of the criminal offence for which the extradited person is charged with suffers changes during the procedure, he may be trialled or sentenced only if the offence according to the new classification is considered as containing elements of the offence for which extradition was granted.

Article 22 **Simplified Extradition Procedure**

Parties agree to recognize a simplified extradition procedure on the basis of their domestic legislation.

Article 23 **Re-extradition to a Third State**

Except for the cases provided for by Article 21, paragraph 1, sub-paragraph ii) of the present Agreement, the Requesting Party shall not surrender the extradited person to a third State, without the consent of the Requested Party, for offences committed before his surrender. The Requested Party may ask for the submission of the documents listed in Article 13, paragraph 2 of the present Agreement.

Article 24 **Transit**

1. Transit through the territory of one of the Parties shall be granted following the submission of a written request provided that the offence falls within the scope of the present Agreement.
2. The request for transit shall be accompanied by the documents listed in Article 13 of the present Agreement.
3. No authorization shall be needed when using air transport and with no planned landing in the territory of the transit state. In case of unplanned landing, the Requesting Party shall notify the Requested Party, and such notice shall have the effect of a request for provisional arrest, and the requesting Party shall submit a formal request for the transit.

CHAPTER IV FINAL PROVISIONS

Article 25 **Expenses**

1. The Requested Party shall cover all costs, according to its jurisdiction, deriving from the extradition procedures.
2. The Requesting Party shall cover all costs incurred for the transfer of person through the territory of the Requested Party.

Article 26
Scope

The provisions of the present Agreement shall be applicable for all extradition requests for criminal offences committed prior and after the entry into force of the present Agreement.

Article 27
Final Provisions

1. The present agreement shall be subject to ratification in compliance with legal procedures of the Parties and shall enter into force 30 days after the last notice, through diplomatic channels of the Parties, informing that internal procedures for the present Agreement to take effect are completed.
2. The present Agreement shall be concluded for an indefinite period and shall be terminated six months after one of the Parties informs the other on its withdrawal.
3. Each Party may denounce the present Agreement through a written notice sent to the other Party. The denouncement of the present Agreement shall enter into force six months after the receipt of this notice.

IN WITNESS THEREOF, the undersigned, being duly authorized, have signed the present Agreement.

DONE in Tirana, on 6 November 2012, in Albanian and Serb languages, with all texts being equally authentic. In case of disagreements in interpretation, the text of the Albanian version shall prevail.

**FOR THE GOVERNMENT
OF THE REPUBLIC OF KOSOVO**

**FOR THE COUNCIL OF MINISTERS
OF THE REPUBLIC OF ALBANIA**

**DEPUTY PRIME MINISTER AND
AND MINISTER OF JUSTICE**

MINISTER OF JUSTICE

HAJREDIN KUÇI

EDUARD HALIMI

(signature)

(signature)

AGREEMENT
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS
CONCLUDED BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF KOSOVO
AND
THE COUNCIL OF MINISTERS OF THE REPUBLIC OF ALBANIA

The Government of the Republic of Kosovo and the Council of Ministers of the Republic of Albania, hereinafter referred to as "Parties".

Considering their aspirations for further development and strengthening of mutual relations in the spirit of existing friendship and cooperation with regards to mutual legal assistance in criminal matters between the two states,

Considering the desire for active participation in cooperation process with European states,

Agreed, as follows:

CHAPTER I
GENERAL PROVISIONS

Article 1
Scope and Area of Application of Mutual Legal Assistance

1. The Parties, in compliance with the provisions of the present Agreement, undertake to afford one another the greatest measure of mutual legal assistance in criminal matters in relation to sentences and offences, which at the time the request for assistance is submitted are within the jurisdiction of judicial authorities of the Requesting parties.
2. Such assistance shall include:
 - i) obtaining evidence and statements of persons;
 - ii) providing documents, records and evidence;
 - iii) notices on documents and procedural acts;
 - iv) finding or identifying persons or items;
 - v) transferring detained persons for their testimony;
 - vi) executing requests for controls and confiscations;
 - vii) identifying, tracing, sequestrating and confiscating proceeds and items of crime and assisting in the procedure/proceedings in relation to them;
 - viii) recognising and enforcing judgements in criminal matters;
 - ix) any other procedural action required in a criminal procedure agreed upon between the Parties.

Article 2
Central Authorities

1. For the purpose of the present Agreement:
 - i) Central authorities shall be ministries of justices of the respective Parties;
 - ii) Judicial authorities are, as follows:
 - a) For the Republic of Albania: High Court, Appeal Court, First Instance Court, General Prosecution, Prosecutions to the Appeal Courts and Prosecutions to the First Instance Courts;
 - b) For the Republic of Kosovo: Basic Courts, Appeal Courts, Supreme Courts, Basic Prosecutions, Appeal Prosecution, Special Prosecution and the Office of the State Chief Prosecutor.

Article 3
Communication and Transmission of Requests for Mutual Legal Assistance

1. The request for mutual legal assistance shall include the letters of request on the basis of internal legislation of the Republic of Albania and requests and letters rogatory according to internal legislation of the Republic of Kosovo within the scope of cooperation of the present Agreement.
2. The request of the judicial authorities of one Party shall be served in writing to the judicial authorities of the other Party through the central authorities. In case of urgency, it may be sent directly through judicial authorities of Parties, also informing the respective central authority.
3. The request and supporting documents shall be submitted in original or an authenticated copy.
4. The request and supporting documents shall be sent via postal services, diplomatic channels or through other technical convenient means provided that a confirmation is received.
5. Parties' judicial authorities shall execute the requests without delay.
6. The request addressing the Ministry of Justice of the Republic of Albania shall be sent in Albanian language and the request addressing the Ministry of Justice of the Republic of Kosovo in Albanian or Serbian language.

Article 4
Request

1. The request for assistance, insofar as possible, shall include the following:
 - i) The requesting authority and the designation of the requested authority;
 - ii) An exact definition of the type of request establishment jurisdiction relations between the Parties, the reasons for the request and legal grounds;
 - iii) A description of the ongoing criminal procedure;
 - iv) a description of the facts of the case, including the time and place of commission of the criminal offence as well as copies of the text of domestic applicable legal provisions;

- v) general information of the persons related to the scope of the request as well as his/her position in the criminal procedure;
 - vi) acts attached to the request, if any, registered, including an inventory;
 - vii) statement in case the matter is urgent, and the deadline for its enforcement together with the grounds for urgency or deadline;
 - viii) a description of a special procedure to be following in the execution of the request;
 - ix) request for confidentiality of the request, if necessary, and the reason for it;
 - x) any other information that may be importance for the request execution procedure.
2. The request and supporting documents shall be duly signed and sealed by the requesting authority.
 3. The requested party may ask for additional information if deemed necessary for the execution of the request.

Article 5 **Refusal to Provide Mutual Legal Assistance**

1. Assistance to provide mutual legal assistance may be refused if:
 - i) the request refers to criminal offences that the Requested Party considers as criminal political offences or related to criminal political or military offences;
 - ii) the requested party considers that the execution of the request may deny sovereignty, security, public order and other essential interest of one of the Parties;
2. In the event of criminal offences against humanity or protected values by international law, attempts to commit them as well as cooperation in committing them, the Party may request requests on the grounds of criminal political offences.
3. Acts of refusal shall include the grounds for refusal and the legal basis.

Article 6 **Execution of Requests**

1. The Requested State shall execute the requests for assistance made in accordance with the present Agreement, in compliance with the procedures provided for by its domestic legislation.
2. The Requested State may enforce a special procedure that is explicitly requested by the Requesting Party to the extent that such a procedure is not in contradiction with the domestic legislation of the Requested Party.
3. If the Requesting Party asks it explicitly, the Requested Party shall provide information on the date and location for the execution of the request.
4. Competent authorities of the Requested Party, upon the request of the judicial authorities of the Requesting party, may allow for the representative of the judicial authorities of the Requesting Party to take part in obtaining evidence and quizzing a person, on the basis of the legislation of the Requested Party.
5. The Requested Party may postpone or condition the execution of the request if its execution affects the wellbeing of the criminal proceedings initiated by the judicial authorities of the Requested party. In this case, the Requested Party shall inform the Requesting Party on the grounds for postponement or conditioning of the execution of request.
6. In cases when the Requested Party finds that the request for mutual legal assistance may not be met, it shall inform the Requesting Party immediately and specify the reasons for not doing

so. The original request and supporting documents shall be returned to the Requesting Party without delay.

7. Once the request for mutual legal assistance is executed, the Requested Party shall transmit the certified copies of data or requested documents unless the Requesting party explicitly requests the transmission of originals.

Article 7 Confidentiality

1. The Requesting party may ask from the Requested Party to treat the submission and the content of the request as confidential to the extent necessary for its execution. If the Requested Party cannot meet the confidentiality request, then it shall inform the Requesting Party within a reasonable period of time.

2. Anyone within the competent institution having access to the collected, stored and processed personal data for the implementation of the agreement during the exercise of its duties and after their completion shall be subject to the obligation of keeping the information confidential, unless otherwise provided for by the domestic laws of any of the Parties.

3. Parties shall be obliged to keep confidentiality and credibility even after the termination of the present Agreement. The data shall not be distributed, unless for cases provided for by respective legislations.

Article 8 Protection of Personal Data

1. The Party receiving personal data from the other Party for the purposes of executing a request submitted in compliance with the present Agreement, any use them for the following purposes only:

- i) criminal procedures falling within the scope of the present Agreement;
- ii) other judicial or administrative procedures directly related to the criminal procedure provided for by sub-paragraph i) of the present paragraph;
- iii) prevention of immediate and serious threat to the public safety.

2. Personal data may be used for different purposes rather than the ones defined by paragraph 1 of the present Article if the Party submitting them or the subject of the data gives a preliminary written consent.

3. Each Party may refuse the transfer of personal data obtained as a result of the execution of submitted request in compliance with the present Agreement if:

- a. the interests of national security, foreign polity, state's economy and finance, freedom of expression and information or freedom of the press, or prevention and prosecution for criminal offences are threatened; and
- b. Party to receive the data does not ensure a sufficient level of protection of personal data in compliance with domestic legislation on protection of personal data and standards provided for by respective international acts, unless the latter Party takes the responsibility to protect personal data as required by the other Party.

4. The Party transferring the obtained personal data as a result of the execution of the request submitted in compliance with the present Agreement, asks from the other Party to provide information on their use, including the timeline for storing the data up to their annihilation.
5. Institutions of both Parties implementing the provisions of the present Agreement shall undertake all adequate organisational and technical measures to protect personal data from illegal or accidental destruction, accidental loss, unauthorized access or distribution, in particular when processing data by the network as well as any other illegal processing.

CHAPTER II EXECUTION OF REQUESTS BY TYPES

Article 9 Servicing of Summons and Judicial Documents

1. The Requested Party may ask from the Requesting Party to:
 - i) service the summons for parties involved in the criminal proceedings, the witness or the expert;
 - ii) service orders and decisions of judicial authorities and other documents related to the criminal proceedings of the Requested Party.
2. Requests for the servicing of summons for the defendant shall be conducted by the central authority of the Requested Party no later than 45 days prior to the intended date of defendant's appearance in the territory of the Requesting party, with the exception urgent cases which may have the deadline reduced.
3. Servicing of documents according to the domestic legislation of each Party.
4. Each Party, through its diplomatic and consular representatives, shall be entitled to make available documents or official documents requested by its nationals in the territory of the Party, to which the request is addressed, in compliance with the domestic legislation governing the issue of public information with official documents and legislation for the protection of personal data.

Article 10 Inviolability of the Summoned Person

1. A witness or witness expert, regardless of its nationality, who is serviced with a summons by the Requesting Party shall not be prosecuted, detained or subject to any other deprivation of his/her personal liberty in its territory in relation to offences committed or sentences imposed prior to his/her departure from the territory of the Requested Party.
2. A person, regardless of its nationality, that is summoned before judicial authorities of the Requesting Party as a defendant to answer for offences being accused of, shall not be prosecuted, detained or subject to any deprivation of personal liberty in its territory in relation to offences committed or sentences imposed prior to his/her departure from the territory of the Requested Party and which are not specified in the requests.
3. The validity of warranty provided for by the present Article shall cease to exist if:
4. The witness, expert witness or the defendant stays in the territory of the Requested Party more than 15 days from the point his/her presence is not needed by the judicial

authorities even though he/she had the opportunity to leave the territory. This timeline does not include the period during which the summoned person couldn't leave the territory due to legally documented reasons.

5. The witness, expert witness or the defendant shall return to its territory voluntary after the release by the Requesting State.

Article 11

Sessions through Means of Telecommunication

1. In cases when the person is in the territory of the Parties and has to be heard as a witness or expert by the competent authorities of one of the other Party, the latter, if not desirable or possible for the person to appear in person in its territory, may request that hearing takes place through means of telecommunications.
2. Apart from the data provided for by Article 4 of the present Agreement, the hearing request shall include:
 - i) the reason why it is not desirable or possible for the witness or the expert to be present in person;
 - ii) designation of judicial authority and the name of persons that will lead the hearing session.
3. Hearing sessions shall be held on the basis of the following rules:
 - i) judicial body of the Requested Party shall be present during the hearing and shall be responsible to ensure the identification of the person to be heard and the observance of the fundamental principles of the laws of the Requested Party. If the judicial body of the Requested Party considers that during the hearing the fundamental principles of the law of the Requested Party are being violated, then it may immediately take the necessary measures to ensure that hearing will continue in compliance with the abovementioned principles;
 - ii) measures for the protection of the person to be heard shall be approved by the judicial authorities of both parties, if needed;
 - iii) approve the measures for the protection of the person to be heard; the Requested Party shall ensure that the person to be heard is assisted by an interpreter if needed;
 - iv) the person to be heard may exercise the right not to testify in compliance with the laws of any of the Parties.
4. Without denying the approved measures for the protection of persons, the judicial body of the Requested Party shall compile the hearing minutes, including:
 - i) date and location of hearing;
 - ii) identity of the person to be heard;
 - iii) identities and functions of other persons in the Requested Party taking part in the hearing;
 - iv) oaths made;
 - v) technical conditions for the hearing to take place; and
 - vi) implementation of protection measures.
5. Parties undertake necessary measures to implement domestic legislation when the witness or expert to be heard refused to provide testimony or provides a false testimony.

Article 12
Temporary Transfer of Sentenced Persons

1. If the Requesting Party requests the appearance of a person held in detention or imprisonment in the territory of the other Party to testify, he/she may be transferred temporarily in the state of the Requesting Party provided that he/she will be re-transferred within the period defined by the Requested Party.
2. Temporary transfer of the person shall be decided by the central authority if the Requesting party guarantees the protection and return of the period during the defined period.
3. Transfer may be refused if:
 - i) the detained person does not consent to transfer;
 - ii) his/her presence is need for a criminal proceeding ongoing in the territory of the Requested Party;
 - iii) his/her transfer would further prolong his detention; or
 - iv) there are other core reasons against the transfer.
4. The transfer of the defendant may be postponed if his/her presence is necessary for an ongoing criminal procedure in the territory of the Requested party.
5. In case of temporary transfer of the defendant, from a third state to one of the Parties, through the territory of the other Party, the latter, in compliance with the present Agreement, shall allow for his/her transit through its territory provided that the defendant is not its national.
6. The transferred person shall be held in detention in the territory of the Requesting Party and, if applicable, in the territory of the Party through which the transit takes place, unless the delivering Party demands his/her release. The period of detention in the Requesting Party shall be calculated in the length of the final sentence.
7. In cases when the specific purpose in paragraph 1 of the present Article is fulfilled, the Requesting Party shall immediately return the person to the Requested Party, unless the latter demands his/her release. The transferred person shall be entitled to specific rights provided for by Article 10 of the present Agreement.

Article 13
Confiscation and Surrender of Items

1. Request for confiscation and surrender of items shall be granted when the offence for which request is made is provided for as a criminal offence by legislations of both Parties.
2. Request for confiscation and surrender of items shall be supported by a decision of the competent judicial body of the Requesting party ordering the confiscation of that item.
3. The Requested Party may postpone the surrender of the item, data or documents if the item, data or documents are requested for the purposes of their pending national criminal proceedings.
4. Items, original data or documents delivered to the Requesting Party during the requests for mutual legal assistance, shall be returned to the Requested Party as soon as possible, unless the latter waives its entitlement of having them returned.

5. Paragraphs 1 through 3 of the present Article shall not deny the legitimate interests of stakeholders including trustees in relation to the confiscated and surrendered items.

Article 14 **Transferring the Criminal Procedure**

1. Parties may request from each other to transfer the criminal procedure provided that the Requested party has the competence to exercise prosecution.
2. Transfer of criminal procedure shall be granted if the national of one of the Parties or the person living in its territory, commits in the territory of the other Party a punishable offence provided for by the laws of both parties.
3. Transfer of criminal procedure shall be permitted following the completion of conditions provided for by the law of the Requested Party.
4. The competent judicial body of the Requested Party shall perform criminal procedures in compliance with its laws.
5. The request for transfer, apart from data included in Article 4 of the present Agreement, shall be accompanied by the original file or an authenticated copy.
6. When the Requesting Party has asked for a transfer of the procedure/proceedings, it may not continue with the prosecution of the person for the criminal offence for which the transfer is requested or execute a decision imposed in the state of that Party against the person for the same criminal offence. However, the Requesting Party shall be entitled to undertake all steps for the prosecution or the sending to court of the matter up to the point of receiving the decision of the Requested party on the receipt of transfer.
7. The entitlement to prosecution and execution of the decision shall be returned to the Requesting party if the Requested Party informs about its decision to refuse the transfer of procedure due to the failure to fulfil conditions provided for by its domestic legislation or its decision to withdraw the acceptance of the request for transfer given that after the acceptance a reason has emerged not to proceed with the prosecution of the proceeding.
8. The Requested Party informs the Requesting Party of the result of the criminal procedure and submits the final decision or its authenticated copy.

Article 15 **Court Services Expenses**

1. Parties shall waive their entitlement to reimbursement of costs from the execution of requests with the exception of the following cases:
 - i) costs of a witness or expert appearing for the execution of a request before the judicial authorities of the Requested Party. In this case the expert or witness shall be compensated in accordance with the legislation of the Requesting party. The request shall contain the approximate amount of costs to be compensated;
 - ii) costs for the temporary transfer of sentenced persons as provided for by Article 12 of the present Agreement;
 - iii) costs for the conduct of procedural actions entailing high or extraordinary costs;
2. Central authorities of the Parties shall consult each other in advance with an aim of reaching an agreement for the conditions of execution of the order of payment as the

form of executing the payment of expenses provided for by sub-paragraph iii), paragraph I of the present Article.

Article 16
Recognition and Enforcement of Judgements

Both Parties shall recognize and enforce judgments issued by Parties competent courts in compliance with their domestic legislation.

CHAPTER III
TRANSFER OF DATA

Article 17
Data on Legislation

Central authorities shall, upon request, provide to each other the texts of legal provisions in force or that were in force in the territory of the Parties, as well as information on certain legal matters.

Article 18
Office of Judicial Status

The Requested Party shall transfer personal data in possession to the Office of Judicial Status to the extent required by their judicial authorities if that is required by competent authorities of the Requesting Party and if that is necessary for the criminal procedure.

Article 19
Exchange of Information

1. Each Party shall inform the other Party on criminal judgements and respective sentences imposed by their judicial authorities to the nationals of the other Party and that were subject to registration in the judicial register (Office of Judicial Status).
2. Central authorities shall promptly communicate the data provided for by paragraph 1 of the present Article.

CHAPTER IV
TRANSITIONAL AND FINAL PROVISIONS

Article 20
Implementation and Interpretation of the Agreement

1. Provisions of the present Agreement shall be applicable to requests for mutual legal assistance related to criminal offences committed prior or after the entry into force of the present Agreement.
2. Any disagreement that may arise between Parties with regards to the interpretation and implementation of the provisions of the present Agreement shall be settled through

diplomatic channels or through direct communication between Parties' central authorities in compliance with their domestic legislation.

Article 21
Judicial Authorities of the Republic of Kosovo

Up to 1 January 2013, judicial authorities in the Republic of Kosovo are: Supreme Court, District Courts, Economic Court, Municipal Courts, Office of the State Prosecutor of the Republic of Kosovo, Special Prosecution of the Republic of Kosovo, Public Prosecution District Offices and Public Prosecutor's Municipal Offices.

Article 22
Final Provisions

1. The present agreement shall be subject to ratification in compliance with legal procedures of the Parties and shall enter into force 30 days after the last notice, through diplomatic channels of the Parties, informing that internal procedures for the present Agreement to take effect are completed.
2. The present Agreement shall be concluded for an indefinite period and shall be terminated six months after one of the Parties informs the other on its withdrawal.
3. Each Party may denounce the present Agreement through a written notice sent to the other Party through diplomatic channels. The denouncement of the present Agreement shall enter into force six months after the receipt of this notice.
4. Institutions of the Republic of Kosovo listed in paragraph b, Article 2 of the present Agreement shall have this organisational structure as of 11 January 2013 as provided for by the applicable law.

IN WITNESS THEREOF, the undersigned, being duly authorized, have signed the present Agreement.

DONE in Tirana, on 6 November 2012, in Albanian and Serb languages, with all texts being equally authentic. In case of disagreements in interpretation, the text of the Albanian version shall prevail.

**FOR THE GOVERNMENT
OF THE REPUBLIC OF KOSOVO**

**FOR THE COUNCIL OF MINISTERS
OF THE REPUBLIC OF ALBANIA**

**DEPUTY PRIME MINISTER AND
AND MINISTER OF JUSTICE**

MINISTER OF JUSTICE

HAJREDIN KUÇI

EDUARD HALIMI

(signature)

(signature)

AGREEMENT
ON THE TRANSFER OF SENTENCED PERSONS
CONCLUDED BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF KOSOVO
AND
THE COUNCIL OF MINISTERS OF THE REPUBLIC OF ALBANIA

The Government of the Republic of Kosovo and the Council of Ministers of the Republic of Albania, hereinafter referred to as "Parties",

With the desire to further develop international cooperation in the area of criminal law,

Taking into account that such cooperation would further the purposes of justice and social rehabilitation of sentenced persons,

Recognizing that these objectives require that persons, whose freedom is deprived due to the commitment of an offence, should be given the possibility to serve the sentence in their own society,

Considering that this purpose may be better achieved by transferring them to their own countries,

Agreed, as follows:

Article 1
Definitions

1. For the purposes of the present Agreement, the terms below shall have the following meaning:
 - "sentence" shall mean a final punishment or measure on the deprivation of freedom as imposed by a court following a criminal offence,
 - "judgement" shall mean a court decision or order imposing the sentence.
 - "sentencing party" shall mean the Party, which has made a judgement for a person, who is transferred or may be transferred,
 - "implementing party" shall mean the Party to which a sentenced person is transferred or may be transferred to serve a sentence.
 - "central authority" shall mean the ministries of justice of the Parties.

Article 2
General principles

1. Parties undertake to provide each other with the widest extent of cooperation with regards to the transfer of sentenced persons in compliance with the provisions of the present Agreement.
2. A sentenced person in the territory of the Sentencing Party may be transferred to the Implementing Party to serve the imposed sentence, in compliance with the provisions of the present Agreement. To this end, the sentenced person may express his interest to the Sentencing Party or to the Implementing Party for his transfer in compliance with the present Agreement.
3. Transfer may be requested either by the Sentencing Party or the Implementing Party.

Article 3 Conditions of Transfer

1. A sentenced person may be transferred under this Agreement only on the following conditions:
 - i) if that person is a national of the Implementing Party;
 - ii) if the judgment is final;
 - iii) if, at the time of receipt of the request for transfer, the sentenced person still has at least six months of the sentence to serve;
 - iv) if the transfer is consented to by the sentenced person or, where in view of his age or his physical or mental condition one of the two Parties considers it necessary, by the sentenced person's legal representative;
 - v) if the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the Implementing Party or would constitute a criminal offence if committed on its territory; and
 - vi) if the Sentencing and Implementing Parties agree to the transfer.
2. In exceptional cases, the Parties may agree to a transfer even if the time to be served by the sentenced person is less than that specified in sub-paragraph iii) of paragraph 1, of the present Article.
3. The provisions of the present Agreement are implemented to the extent possible including the criminally irresponsible persons that have committed a criminal offence, for which the court has decided to restrict their freedom through a compulsory hospitalization in a psychiatric institution.

Article 4 Obligation to Provide Information

1. Any sentenced person to whom the present Agreement may apply shall be informed by the Sentencing Party of the substance of the present Agreement.
2. If the sentenced person has expressed an interest to the Sentencing Party in being transferred under the present Agreement, that Party shall so inform the Implementing Party as soon as practicable after the judgment becomes final.
3. The information shall include:
 - i) the name, date and place of birth of the sentenced person;
 - ii) his address, if any, in the Implementing Party;
 - iii) a statement of the facts upon which the sentence was based; and

- iv) the nature, duration and date of commencement of the sentence.
- 4. If the sentenced person has expressed his interest to the Implementing Party, the Sentencing Party shall, on request, communicate to the Implementing Party the information referred to in paragraph 3 of the present Article.
- 5. The sentenced person shall be informed, in writing and in a language, which he understands, of any action taken by the Parties in compliance with paragraph 4 of the present Article, as well as of any decision taken by either Party in relation to the transfer request.

Article 5 Communication

- 1. Requests, and answers to requests for transfers shall be made in writing.
- 2. Parties shall communicate directly through central authorities, however communication via diplomatic channels shall not be excluded.
- 3. Parties shall promptly inform each other on decisions whether or not to grant the requested transfer.

Article 6 Supporting Documents

- 1. The Implementing Party, if requested by the Sentencing Party, shall provide it with:
 - i) a document or statement indicating that the sentenced person is a national of that Party;
 - ii) a copy of the relevant legal provisions of the Implementing Party, which provide for that the acts or omissions on account of which the sentence has been imposed by the Sentencing State constitute a criminal offence according to the law of the Implementing Party, or would constitute a criminal offence if committed on its territory;
- 2. If a transfer is requested, the Sentencing Party shall provide the following documents to the Implementing Party:
 - i) a certified copy of the judgment and the law on which it is based;
 - ii) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission, and any other factor relevant to the enforcement of the sentence;
 - iii) a declaration containing the consent to the transfer as referred to in Article 3, paragraph 1, sub-paragraph iv) of the present Agreement;
 - iv) whenever appropriate, any medical or social reports on the sentenced person, information about his treatment and any recommendation for his further treatment in the Implementing Party.
- 3. These documents shall not be presented in case one of the Parties served a notice of disagreement with the transfer.
- 4. Either Party may ask to be provided with any of the documents referred to in paragraph 2 of the present Article before making a request for transfer or taking a decision on whether or not to grant the transfer.

Article 7 Consent and its verification

1. The Sentencing Party shall ensure that the sentenced person who gave the consent to the transfer in compliance with Article 3, paragraph 1, sub-paragraph iii), has done so voluntarily and with full knowledge of the legal consequences thereof including conditions of imprisonment, services provided, the rights and treatment of sentenced persons in the Implementing Party. The procedure for giving such consent shall be governed by the legislation of the Sentencing Party.
2. The Sentencing Party shall provide an opportunity to the Implementing Party to verify, through a consular or other official agreed upon with the Implementing Party, that the consent is given in accordance with the conditions set out in the present Article.

Article 8
The Effect of Transfer for the Sentencing Party

1. Undertaking the execution of the sentence against the transferred person by the authorities of the Implementing Party shall have the effect of suspension of sentence in the Sentencing Party.
2. The Sentencing Party shall not execute the sentence further if the Implementing Party considers the execution of its sentence as completed.

Article 9
The Effect of Transfer for the Implementing Party

1. Competent authorities of the Implementing Party shall:
 - i) continue the enforcement of the sentence immediately or through a sentence according to the conditions set out in Article 10 of the present Agreement;
 - ii) convert the sentence, through a judicial or administrative procedure, into a decision of that Party, thereby substituting for the sanction imposed in the Sentencing Party with a sanction prescribed by the law of the Implementing Party for the same offence, under the conditions set out in Article 11 of the present Agreement.
2. The enforcement of the sentence shall be governed by the law of the Implementing Party and that Party alone shall be competent to take all appropriate decisions.

Article 10
Continued Enforcement

1. In case of continued enforcement, the Implementing Party shall be obliged to comply with the legal nature and length of the sentence, as provided for in the Sentencing Party.
2. If the sentence is by its nature or length incompatible with the law of the Implementing Party or when that is provided for by its law, such Party may through a court or administrative order, adapt it to the sentence or measure prescribed by its own law for the same offence. The sentence so adapted shall, as to its nature and duration, neither aggravate the sanction imposed by the Sentencing Party nor exceed the maximum provided for by the Implementing Party.

Article 11
Conversion of sentence

1. In the case of conversion of sentence, the procedures provided for by the law of the Implementing Party shall apply. When converting the sentence, the competent authority:
 - i) shall be bound by the findings as to the facts insofar as they appear explicitly or implicitly from the judgment imposed in the Sentencing Party;
 - ii) may not convert a sanction involving deprivation of liberty to a pecuniary sanction;
 - iii) shall deduct the full period of deprivation of liberty served by the sentenced person;
 - iv) shall not aggravate the penal position of the sentenced person, and shall not be bound by any minimum which the law of the Implementing Party may provide for the offence(s) committed.
2. If the conversion procedure takes place after the transfer of the sentenced person, the Implementing Party shall keep that person in custody or otherwise ensure his presence in the Implementing Party pending the outcome of that procedure.

Article 12
Pardon and Amnesty

1. Each Party may grant pardon or amnesty in compliance with its domestic legislation and shall duly notify the other Party for that action.
2. In case a sentence is pardoned or amnestied by the Sentencing Party, the Sentencing Party shall forward the acts to the Implementing Party and the latter's central authority shall proceed on the basis of its domestic legislation.

Article 13
Review of judgment

The Sentencing Party alone shall have the right to decide on any application for review of the judgment.

Article 14
Termination of enforcement

The Implementing Party shall terminate the enforcement of the sentence as soon as it is informed by the Sentencing Party of any decision or measure as a result of which the sentence ceases to be enforceable.

Article 15
Information on enforcement

The Implementing Party shall provide information to the Sentencing Party concerning the enforcement of the sentence:

- i) when it considers that the enforcement of the sentence has been completed;
- ii) if the sentenced person has escaped from custody before enforcement of the sentence has been completed; or
- iii) if the Sentencing Party requests a special report.

Article 16 **Language and costs**

1. For the application of the present Agreement, the information shall be transmitted in the official language of the requested Party, as follows:
 - a. In the Albanian language when addressed to the Republic of Albania,
 - b. In the Albanian or Serbian languages when addressed to the Republic of Kosovo;
2. With the exception of the limitations provided for by Article 6, paragraph 2, sub-paragraph i), documents transmitted for the purposes of implementing the present Agreement do not need to be certified.
3. Any costs incurred in the application of the present Agreement shall be borne by the Implementing Party, except for the costs incurred exclusively in the territory of the Sentencing Party, and costs related to the transportation of the sentenced person until the border of the Implementing Party, or in case of air transportation until the airport of the final destination, unless otherwise agreed by the Parties.

Article 17 **Final Provisions**

1. The present agreement shall be subject to ratification in compliance with legal procedures of the Parties and shall enter into force 30 days after the last notice, through diplomatic channels of the Parties, informing that internal procedures for the present Agreement to take effect are completed.
2. The present Agreement shall be applicable for the implementation of sentences prior and after its entry into force.
3. The present Agreement shall be concluded for an indefinite period and shall be terminated six months after one of the Parties informs the other on its withdrawal.
4. Each Party may denounce the present Agreement through a written notice sent to the other Party through diplomatic channels. The denouncement of the present Agreement shall enter into force six months after the receipt of this notice. The present Agreement shall be applicable to the enforcement of sentenced persons that were transferred in compliance with the provisions of the Agreement prior to the date the denouncement has entered into force.

IN WITNESS THEREOF, the undersigned, being duly authorized, have signed the present Agreement.

DONE in Tirana, on 6 November 2012, in Albanian and Serb languages, with all texts being equally authentic. In case of disagreements in interpretation, the text of the Albanian version shall prevail.

FOR THE GOVERNMENT
OF THE REPUBLIC OF KOSOVO

DEPUTY PRIME MINISTER AND
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(signature)

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