

**Law No. 05/L-033**

**ON AMENDING AND SUPPLEMENTING THE LAW NO. 03/L-223 ON THE KOSOVO  
JUDICIAL COUNCIL**

**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-223 ON THE KOSOVO  
JUDICIAL COUNCIL**

**Article 1**

After Article 3 of the basic Law, a new Article 3/A is added with the following text:

**Article 3/A  
The Status and Emblem**

1. Kosovo Judicial Council (hereinafter: the Council) has legal personality.
2. The Council and the courts have an emblem according to the Law on use of the state symbols of Kosovo, which shall be used in all documents, decisions and judgments.

**Article 2**

1. Article 4 of the basic Law, paragraph 1., subparagraph 1.13, after the word "branch" the conjunction "and" is deleted and the words "hiring and" are added.
2. Article 4 of the basic Law, paragraph 1., subparagraph 1.19 and 1.25 are deleted from the text of the law.
3. In Article 4 of the basic Law, paragraph 1, after subparagraph 1.27 new subparagraphs are added with the following text:
  - 1.28. issuing of regulation on determining the terms and procedures for organizing the exam for candidates for judges;
  - 1.29. announcing and organizing the exam for judges;
  - 1.30. issuing regulation on the procedure of selection of the President of the Supreme Court and the presidents of the courts;

- 1.31. establishing court branches in accordance with the Law on Courts;
- 1.32. cooperates with other country's judicial councils and relevant international bodies;
- 1.33. managing central system of criminal evidence. Other procedures and rules in relation to criminal evidence shall be decided by regulation adopted by the Council;
- 1.34. shall perform other duties defined by the law.

### **Article 3**

1. Article 5 of the basic Law, paragraph 1, after the word "Constitution " the phrase "with a five year term" are added.
2. Article 5 of the basic Law, paragraph 2, after the word "pursuant" the words "Article 65 (10) and " are deleted from the text of the law.
3. Article 5 of the basic Law, paragraph 3. is deleted from the text of the law.
4. Article 5 of the basic law, after paragraph 4. new paragraphs 5., 6., 7., 8. and 9. shall be added with the following text:
  5. Council members reflect the multi-ethnic nature and gender equality principles in the Republic of Kosovo. The Council shall adopt a special regulation for implementing this paragraph.
  6. While performing the function of the Council member, the member cannot be promoted and cannot be appointed President of the relevant Court.
  7. Members of the Council are entitled to compensation for their work as members of Council. The Council will approve the compensation scheme respectively the salary.
  8. Presidents of the Courts ad President of the Kosovo Bar Association cannot be members of the Kosovo Judicial Council.
  9. Member of the Council coming from Bar Chamber cannot exercise the duty of a barrister while being a member of a Council. Salary of a member from Bar Chamber shall be assigned and paid by the Bar Chamber.

### **Article 4**

After Article 5 of the basic law, a new Article 5/A shall be added with the following text:

#### **Article 5/A**

#### **Procedure for proposal, selection and dismissal of members of the Judicial Council selected by the Assembly**

1. Procedure for selection of members of the Judicial Council by the Assembly, as defined

in Article 108 paragraph 6 sub-paragraph 2. , 3. and 4. of the Constitution, begins six (6) months prior to end of the member`s mandate.

2. Notwithstanding paragraph 1. of this Article, when the mandate ends beforehand, as defined with this law, the procedure for selection of a member begins within thirty (30) days from the day the place remains vacant.

3. The Assembly of the Republic of Kosovo publishes the competition for selection of the Council members in printed and electronic media.

4. Respective Committee of the Assembly shall define criteria of the competition for election of a member. The duration of competition cannot be shorter than fifteen (15) days, nor longer than twenty (20) days.

5. After the expiry of the deadline defined in paragraph 4. of this Article, the respective Committee of the Assembly of Republic of Kosovo (hereinafter: Committee) within fifteen (15) days, shall assess whether the candidates meet the requirements to be elected council members and shall reject members who do not meet the criteria as defined in the competition.

6. The Committee shall conduct an interview with each candidate that meets the criteria to be elected as a council member and based on the presented data and the result of the interview, prepares the short list of the candidates.

7. The list for the Assembly meeting contains two (2) candidates for one position.

8. The Assembly of the Republic of Kosovo with secret ballot shall elect members of the Judicial Council.

9. If in the first round the proposed candidates by the respective committee of the Assembly do not receive the majority votes of all deputies of the Assembly, then in the second round is considered elected the candidate with the largest number of votes.

10. The members elected by the Assembly shall be dismissed from office in accordance with provisions of this law, with proposal of the Council.

#### **Article 5**

Article 6 of the basic law paragraph 3, after the word "Proposes to" the words "Ministry of Finance and to the" are deleted from the text of the law.

#### **Article 6**

Article 8 of the basic Law is reworded with the following text:

#### **Article 8**

##### **Termination of mandate**

1. The term of a Council member terminates:

- 1.1. upon death;
  - 1.2. upon loss of capacity to act for more than three (3) months due to certified medical reasons;
  - 1.3. upon consistent failure to attend Council activities for more than three (3) months;
  - 1.4. upon termination of the status, on which the appointment is based;
  - 1.5. upon expiration of the mandate;
  - 1.6. resignation, by providing an advanced notice of thirty (30) days to the Council.
2. Council members are dismissed from their function before the expiration of the mandate for which they were elected, if:
- 2.1. does not perform the functions of the council member in accordance with the Constitution and the law;
  - 2.2. performs the functions in contradiction with their duties and obligations; and
  - 2.3. is convicted for a criminal offence.
3. If a position in the Council is opened before the expiration of the mandate of a member, the open position shall be filled in the same manner with that of the member whose term expired. The person, who is appointed to fill the empty position in the Council, is appointed or elected for a full five (5) year mandate.

#### **Article 7**

Article 9 of the basic law, after sub-paragraph 1.4., a new sub-paragraph 1.5. is added with the following text:

- 1.5. Judges Performance Assessment Committee.

#### **Article 8**

Article 12 of the basic law is reworded with the following text:

#### **Article 12**

##### **Personal liability of the members of the Council**

Members of the council do not bear criminal liability for the decisions, opinions and actions taken within their scope as Council members.

### **Article 9**

Article 15 of the basic Law, paragraph 1. shall be reworded with the following text:

1. The Council shall prepare its annual budget proposal and forward the said budget proposal to the Assembly of the Republic of Kosovo for adoption.

### **Article 10**

1. Article 19 of the basic Law paragraph 4., after the word "in written", is added the word "at Council".

2. Article 19 of the basic Law, after paragraph 4., new paragraphs 5 and 6 shall be added with the following text:

5. The performance assessment of judges with initial term is conducted at least twice by the Judges Performance Assessment Committee, once after the initial training and once at the end of the initial term. The requirements for these evaluations during the initial term shall be specified through Regulation issued by the Council.

6. Performance Assessment of judges with permanent term is conducted every three (3) years, in such a way that, after the entry into force of this law the Council shall assign by drawing 1/3 of judges, within every court, as the first group who shall be subject of the performance assessment within three (3) months. The same drawing shall be held after one (1) year to assign judges who will be part of the second group, and the third group after two (2) years, respectively.

### **Article 11**

After Article 19 of the basic Law a new Article 19/A shall be added with the following text:

#### **Article 19/A**

#### **Judges Performance Assessment Committee**

1. Judges Performance Assessment Committee consists of judges with experience in Kosovo Judicial system.

2. Judges Performance Assessment Committee is led by a judge member of the Council.

3. The assessment of the Committee is the basis for promotion or demotion in office as well as for dismissal from office of the judge. Such assessment should be based on objective requirements, measurable and completely transparent. Objectivity of such assessment should reflect valuable methods of international practices level and which are excessively reasonable and transparent.

4. The Committee, reports to the Council on its work.

5. Composition, mandate, criteria, method and other issues related to the judges performance assessment is regulated by this law and regulation adopted by the Council.

### **Article 12**

Article 22 of the basic Law paragraph 7. is deleted from the text of the law.

### **Article 13**

Article 28 of the basic Law, paragraph 3, after the word "Secretariat", the following sentence is deleted "The Director shall not accept additional compensation, other than reimbursement for reasonable and necessary expenses, for other duties or employment from any other source".

### **Article 14**

Article 30 of the basic Law paragraph 3, after the word "Unit" the following sentence is deleted "The Director shall not accept additional compensation, other than reimbursement for reasonable and necessary expenses, for other duties or employment from any other source."

### **Article 15**

Article 36 of the basic Law, after paragraph 4., new paragraphs 5. and 6. are added with the following text:

5. The Proceedings shall not be initiated and implemented in the Commission after the expiry of one (1) year from the notification received in the Office of Disciplinary Counsel for the alleged violation and five (5) years from the date of the alleged violation.

6. In case when the Office of Disciplinary Counsel has allowed prescription of a case or postponement of its delivery for judgment at the Disciplinary Committee, which shall make impossible for the latter one to consider it under this Law, the Committee shall be obliged to notify the Council for such an omission of the Office of Disciplinary Counsel. Over such an omission, the Council shall require official liability from the Office of Disciplinary Counsel and if for such a thing there is not received a justified answer, in a compulsory way, shall address such a case to the State Prosecutor for a possible investigation of misuse of the official duty by the Office of Disciplinary Counsel.

### **Article 16**

1. Article 39 of the basic Law after paragraph 4., new paragraphs 5. and 6. are added with the following text:

5. Upon deciding on an appeal, the Council may reject the appeal, confirm or modify the decision or break it and return it for review of the Disciplinary Committee.

6. Such a decision of the Council should be reasonable regarding the proofs administered by both parties, interpretation of alleged violations and measure of argumentative conviction that shall suit achievement of aimed determination with this law. In such a case, the decision of the Council should reflect, and justify application of proportional principle in deciding for such a matter. Such a decision becomes transparent based on law conditionality over personal data of the Republic of Kosovo.

**Article 17**

The Regulations set forth by this law shall be rendered in a period of six (6) months following the entry into force of this Law.

**Article 18**

**Entry into force**

This law shall enter into force fifteen (15) days after the publication in the Official Gazette of the Republic of Kosovo.

**Law No. 05/L-033**

**28 May 2015**

**Promulgated by Decree No.DL-012-2015, dated 15.06.2015, President of the Republic of Kosovo Atifete Jahjaga.**