

LAW NO. 08/L-231

**ON RATIFICATION OF THE AGREEMENT BETWEEN THE REPUBLIC OF KOSOVO
AND THE REPUBLIC OF SLOVENIA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL
MATTERS**

Assembly of the Republic of Kosovo;

Based on Articles 18 and 65 (1) of the Constitution of the Republic of Kosovo,

Adopts:

**LAW ON RATIFICATION OF THE AGREEMENT BETWEEN THE REPUBLIC OF KOSOVO
AND THE REPUBLIC OF SLOVENIA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL
MATTERS**

**Article 1
Purpose**

This Law aims to ratify the Agreement between the Republic of Kosovo and the Republic of Slovenia on Mutual Legal Assistance in Criminal Matters, signed by the Ministers of Justice of both countries on 28.10.2016 in Slovenia.

**Article 2
Scope**

This Law applies to all state administration bodies and judicial bodies in Kosovo that are responsible for international legal cooperation.

**Article 3
Attached Documents**

The text of the Agreement between the Republic of Kosovo and the Republic of Slovenia on Mutual Legal Assistance in Criminal Matters is attached as Annex to this Law.

**Article 4
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. 08/L-231
8 June 2023**

**Promulgated by Decree No. DL-114/2023 dated 22.06.2023 President of the Republic of
Kosovo Vjosa Osmani-Sadriu**

* Law No. 08/L-231, "On Ratification of the Agreement between the Republic of Kosovo and the Republic of Slovenia on Mutual Legal Assistance in Criminal Matters", attached with agreement is published in the website of the Official Gazette (gzk.rks-gov.net)

AGREEMENT
BETWEEN
THE REPUBLIC OF KOSOVO
AND
THE REPUBLIC OF SLOVENIA
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The Republic of Kosovo and the Republic of Slovenia (hereinafter: the Parties);

in their desire to further develop and strengthen bilateral relations in the field of mutual legal assistance in criminal matters between the two countries;

Have agreed as follows:

CHAPTER ONE
GENERAL PROVISIONS

Provision of Legal Assistance
Article 1

- (1) The Parties shall provide to each other mutual legal assistance in criminal matters under the conditions and within the scope provided for in this Agreement.
- (2) In accordance with the provisions of this Agreement, the judicial authorities of the Parties shall provide legal assistance to the judicial and other authorities, which are, under the legislation of the Party, competent to deal with criminal matters.

Scope of Legal Assistance
Article 2

- (1) The Parties, in compliance with the provisions of this Agreement, undertake to provide each other with the widest measure of mutual legal assistance in criminal matters.
- (2) Legal assistance in criminal matters includes, in particular:
 1. undertaking of procedural measures, such as summons and service of documents, hearing of defendants, interrogating witnesses, expert witnesses and other persons, crime scene investigation, search of premises and persons, seizure of objects;
 2. implementation of special measures such as surveillance and recording of telephone conversations, other conversations or communications and optical recordings of persons, controlled deliveries, simulated transactions, engagement of undercover investigators,

- searches of a computer system or part thereof and data contained therein, as well as the processing of such data;
3. exchange of notifications and sending documents and objects that are related to criminal proceedings, spontaneous exchange of information, hearings via audio and video conference links, formation of joint investigative teams;
 4. temporary surrender of a person deprived of liberty for the purpose of a hearing, in the capacity of a witness or expert witness, or of confrontation before the competent authority of the requesting State;
 5. freezing and confiscation of the proceeds from crime and items related to criminal offences;
 6. transmitting criminal judgments and information taken from judicial records;
 7. exchanging information on legislation;
 8. the transfer of criminal proceedings;
 9. any other form of assistance not contrary to the law of the requested State.

Channels of Communication **Article 3**

(1) In the application of this Agreement, the competent authorities of the Parties shall communicate in writing through central authorities – the Republic of Kosovo via the Ministry of Justice of the Republic of Kosovo and the Republic of Slovenia via the Ministry of Justice of the Republic of Slovenia.

(2) The diplomatic channel shall thereby not be excluded if there are justified grounds for it.

(3) In urgent cases, judicial and other competent authorities of the Parties may also communicate via the International Criminal Police Organization (INTERPOL). At the same time the original request shall be transmitted via the central authority of the requesting State to the central authority of the requested State.

Language and Legalisation **Article 4**

(1) A request for legal assistance and supporting documents shall be accompanied by a translation into the language of the requested State, that is Albanian, Serbian or English for the Republic of Kosovo and Slovenian or English for the Republic of Slovenia.

(2) The legalisation of documents referred to in paragraph 1 of this Article is not necessary.

(3) The response to a request with attachments (records, court decisions and other) shall be submitted in the language of the requested State.

(4) The documents that need to be served on persons in the requested State shall be submitted in the official language of the requesting State, with translation into the language of the requested State attached.

(5) If the translation, in the case referred to in paragraph 4 of this Article, is not attached, service shall only be done if the recipient accepts the document voluntarily.

Form and Content of Request **Article 5**

(1) A request for legal assistance under this Agreement shall be submitted in writing.

(2) Unless otherwise provided in this Agreement, the request for legal assistance shall contain:

1. the name of the authority of the requesting State from which the request is made;
2. the name of the authority to which the request is addressed, and if its precise name is unknown, the designation "to the competent authority", with the name of the requested State;

3. the file number and a concise description of the case for which legal assistance is requested, the statutory title of the criminal offence and the text of the criminal law provisions of the requesting State;
 4. the subject-matter of the request for legal assistance, and, where necessary, questions that are to be put to the person whose hearing is requested;
 5. other data foreseen under this Agreement for a particular type of legal assistance.
- (3) Requests and attached documents delivered by the judicial or other authorities of the Parties shall be signed and marked with a stamp of the judicial or other authority from which they originate.
- (4) The request for a search of persons or premises or confiscation or seizure of objects or proceeds of crime shall be accompanied by the original or certified copy of the decision on which the particular request is founded.
- (5) Objects and originals of documents that were submitted for execution of a request, shall be returned by the requesting State to the requested State as soon as possible, except where the requested State refrains from claiming them back.
- (6) The competent authority of the requested State may seek additional information and documents that it finds necessary for the execution of the request.

Acting on the Request Article 6

- (1) Requests shall be acted upon without delay and in accordance with the law of the requested State.
- (2) Notwithstanding the provision of paragraph 1 of this Article, upon a request from the competent authority of the requesting State, the requested authority shall proceed in the manner indicated in the request, if it is not contrary to the basic principles of the legal order of the requested State.
- (3) If the requested authority is not able to comply with the request, it shall immediately notify the authority of the requesting State thereof and return the delivered documents while stating the reasons why it could not act upon the request.

Refusal of Legal Assistance Article 7

The requested State shall refuse to provide legal assistance if:

1. the conditions provided by this Agreement are not met;
2. the request concerns an offence which in the opinion of the requested State is of a political or military nature;
3. it considers that complying with the request is likely to prejudice its sovereignty or security, or would be contrary to the basic principles of its legal order.

Postponement of Execution of a Request Article 8

- (1) The requested State may postpone execution of a request if this is necessary for the proper conduct of criminal proceedings which are pending before the domestic judicial authorities and which are related to the submitted request.
- (2) The requested State shall inform the requesting State of the reasons for the postponement of execution of a request referred to in paragraph 1 of this Article.

Costs of Legal Assistance
Article 9

- (1) Each Party shall bear the costs of providing legal assistance incurred in its territory, unless otherwise provided for in this Agreement.
- (2) The Parties shall not require reimbursement of costs for activities carried out under requests, except for:
 1. fees for expert witness evaluations and for other costs incurred in expert witness evaluations,
 2. the costs of temporary surrender of a person deprived of liberty in the territory of the requested State to the territory of the requesting State for the purpose of a hearing, in the capacity of a witness or an expert witness, or of confrontation.
- (3) Expert witness evaluations may be made contingent upon the prior depositing of an advance to the requested court.
- (4) A witness or expert witness who responds to the summons of the requesting State's court shall be entitled to reimbursement of travel and accommodation expenses, in accordance with the requesting State's regulations.
- (5) The summons shall specify which fees pertain to persons referred to in paragraph 4 of this Article, and upon their request, they shall be given an advance to cover their expenses.

Presence during Legal Assistance Actions
Article 10

- (1) Upon its specific request, the requesting State shall be informed by the requested State of the place and time of execution of the request.
- (2) Representatives of the competent judicial authorities of the requesting State and persons involved in criminal proceedings, as well as their legal representatives, may be present during the taking of the particular legal assistance action, with the consent of the competent judicial authority of the requested State. These persons shall enjoy the protection provided for in Article 15 of this Agreement.

Protection and Transmission of Personal Data
Article 11

- (1) The receiving State may use personal data transmitted under this Agreement only:
 1. for the purposes of effective implementation of the criminal proceedings to which this Agreement applies;
 2. for other judicial or minor offence proceedings directly related to the criminal proceedings referred to in subparagraph 1 of this paragraph;
 3. for preventing a direct and serious threat to public safety;
 4. for other purposes that are not contrary to subparagraphs 1, 2 and 3 of the first paragraph of this Article, but only with the prior consent of the state providing the data, except where the receiving State has obtained the consent of the person to whom the data relate.
- (2) Any Party may refuse to transmit personal data obtained as a result of the execution of a request submitted under this Agreement provided that:
 1. such data are subject to protection based on national legislation; or
 2. the Party to which these data are to be transmitted fails to provide for the protection of individuals in respect of automatic processing of personal data to the extent prescribed by the relevant international treaties, except where this Party has taken all the necessary steps to ensure protection of personal data as required by the other Party.

(3) The Party which has transmitted the personal data obtained as a result of the execution of a request submitted under this Agreement may require from the receiving State information on the use of these data.

(4) This Article shall also apply to personal data that are not transmitted but obtained otherwise under this Agreement.

(5) Transmission and processing of sensitive personal data (personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, processed or unprocessed genetic or biometric data that enable unique identification of persons and data concerning health or sex life, criminal records and minor offense records) shall be allowed only in such manner that the Party that has transmitted the data, indicates the necessity of additional protection of these data by preventing unauthorized persons or authorities from having access to them, or illegal processing. The receiving State shall take due account of this limitation.

(6) The rights of individuals regarding accuracy, updates and lawful processing of data shall be exercised under the national legislation of the receiving State.

(7) In its request for the transmission of personal data, the receiving State shall always state relevant identification information which it possesses for a specific person whose data is to be transmitted, the legal basis for the transmission of such data and the judicial proceedings for which it is needed. The sending State shall refuse the transmission of data if the request fails to comply with the provisions of the preceding sentence.

(8) The receiving State shall ensure that within a period of 5 years of completion of procedures referred to in paragraphs 1 and 2 of this Article, it is possible to establish the addressee, the date and the purpose of transmission of the data.

(9) The receiving State shall provide in its national legislation that the submitted data is processed lawfully, proportionately and in accordance with the purposes referred to in the first paragraph, and shall lay down appropriate measures and ways of protecting personal data.

CHAPTER TWO SPECIFIC PROVISIONS

Service of Documents Article 12

(1) In addition to information from Article 5 of this Agreement, a request for service of documents shall contain the address of the person on whom the document is served.

(2) The requested authority shall take all the necessary measures for establishing the right address, if the person to whom the service should be made cannot be found at the address indicated in the request.

(3) Service of documents shall be proven via a certificate of delivery, which shall be drafted under the regulations of the requested State. The certificate of delivery shall specify the location and date of receipt and the signature of the recipient or it shall indicate a different method of delivery.

(4) The Parties may deliver documents to their citizens and take statements from them through their diplomatic representatives, without the use of coercive measures.

(5) A summons to a defendant, witness, expert witness or other participant in the proceedings who is being summoned from the requested State shall not include the threat of a coercive measure in the event they fail to respond to the summons. If the summoned person fails to respond to the summons, they shall not be subject to any sanction.

Temporary Surrender of a Person Deprived of Liberty
Article 13

- (1) If the Party that is conducting the criminal proceedings summons for the purpose of a hearing, in the capacity of a witness or an expert witness, or of confrontation, a person who was deprived of liberty in the other Party, they may be temporarily surrendered to the requesting State.
- (2) The requesting State shall return the temporarily surrendered person within the term specified by the requested State.
- (3) Temporary surrender shall be rejected if:
 1. the person deprived of liberty does not agree to temporary surrender;
 2. the temporary surrender could cause a prolongation of the time they are deprived of liberty;
 3. there are other important reasons against their temporary surrender to the requesting State.
- (4) Temporary surrender may be delayed if the presence of the person deprived of liberty is required in criminal proceedings conducted in the territory of the requested State.
- (5) If a third country should surrender the person deprived of liberty to one of the Parties via the territory of the other Party, the other Party may, in accordance with the provisions of this Agreement, allow on application, accompanied by all necessary documents the transit of the person deprived of liberty, if he is not a citizen of that Party.
- (6) In the case referred to in paragraph 5 of this Article the person surrendered shall be detained in the territory of the Party through which transit is requested, unless the Party from whom transfer is requested applies for his release.
- (7) If the requested State complies with the request, the requesting State shall retain the person deprived of liberty in custody during their stay in its territory and shall return them immediately to the requested State after the provision of legal assistance, if the requested State does not require them to be released. The person surrendered shall enjoy the protection provided for in Article 15 of this Agreement.
- (8) The competent authorities of the Parties shall surrender persons referred to in paragraph 1 of this Article and shall agree on the place and date of the surrender.

Search, Seizure and Confiscation of Items and Proceeds
Article 14

- (1) The Parties shall afford each other, upon request, the widest possible measure of assistance in the identification and tracing of items, proceeds and other property liable to confiscation.
- (2) Once the proceeds from crime or items related to the criminal offence have been traced, pursuant to paragraph 1 of this Article, the Requested State, at the request of the Requesting State, shall adopt any measure provided for by its national legislation in order to freeze and confiscate such proceeds from crime or items related to the criminal offence.
- (3) Property confiscated by a requested State in accordance with the previous paragraph of this Article shall be disposed of by that state in accordance with its national legislation.
- (4) When acting on the request made by requesting State in accordance with paragraph 3 of this Article, requested State shall, to the extent permitted by its national legislation and if so requested by the requesting State, give priority consideration to returning the confiscated property to the requesting State so that it can give compensation to the victims of the crime or return such property to their legitimate owners.
- (5) The Parties shall afford each other, upon request, the widest possible measure of assistance under their national legislation in the execution of measures equivalent to confiscation leading to the deprivation of property, which are not criminal sanctions, in so far as such measures are ordered by a judicial authority of the requesting State in relation to a criminal offence, provided that it has been established that the property constitutes proceeds from crime.

Protection of Witnesses, Expert Witnesses and Defendants
Article 15

(1) A witness or expert, regardless of their citizenship, appearing on a summons before the judicial authorities of the requesting State, shall not be prosecuted or detained or subjected to any other restriction of his personal liberty in the territory of that Party in respect of criminal offences committed prior to their arrival in the territory of the requesting State.

(2) A person, regardless of their citizenship, summoned before the judicial authorities of the requesting State to answer for acts forming the subject of proceedings against him, shall not be prosecuted or detained or subjected to any other restriction of his personal liberty for criminal offences or convictions prior to his departure from the territory of the requested State and not specified in the summons.

(3) The immunity provided for in this Article shall cease when the witness or expert or prosecuted person, having had for a period of 15 consecutive days from the date when their presence is no longer required by the judicial authorities an opportunity to leave, has nevertheless remained in the territory of the requesting State, or having left it, has returned.

Joint Investigative Teams
Article 16

If the circumstances of the case justify it, joint investigative teams may be established by means of a mutual agreement between the competent authorities of the Parties.

Notifications from the Criminal Records
Article 17

(1) The Parties shall inform each other of all the convictions of citizens of the other Party who are registered in their criminal records. The Parties shall deliver these data every 6 months via the Ministry of Justice of the Republic of Slovenia and the Ministry of Justice of the Republic of Kosovo respectively.

(2) The Parties may also inform each other of other data entered in the criminal records.

(3) The competent authority for managing criminal records of one Party shall upon request deliver a copy of the criminal records to the competent judicial authority of the other Party before which criminal proceedings are ongoing.

Information on Legislation
Article 18

The Parties shall inform each other, upon request, of the legislation in force or which was in force in the territory of their countries respectively and, if necessary, deliver texts of those regulations as well as notifications of certain legal matters in connection with the matter that is the subject of this Agreement.

Spontaneous Exchange of Information
Article 19

(1) Without prejudice to their own investigations or proceedings the Parties may, without a previous request, submit to each other data they have acquired on criminal offences and perpetrators thereof, if they consider that these data could be used to initiate or conduct criminal proceedings or could lead to sending a request further to the provisions of this Agreement.

(2) The sending State may, pursuant to its national legislation, impose conditions on the use of such information by the receiving State.

(3) The receiving State shall be bound by those conditions.

Transfer of Criminal Proceedings

Article 20

(1) If a citizen of one Party or any person having permanent residence in its territory commits an act in the territory of the other Party which is a criminal offence in both Parties, the Party in which the offence was committed may request the other Party to take over criminal proceedings.

(2) With regard to requests for the transfer of criminal proceedings, the competent authorities of the requesting State shall take all necessary steps in order to enable the requested State to conduct criminal proceedings. This includes surrender of a person detained in the requesting State to the authorities of the requested State, if that person is not a citizen of the requesting State.

(3) If a person in the requesting State is detained, the competent authority of the requested State shall inform the requesting State of its decision as soon as possible, and no later than in 30 days.

(4) The competent authorities of the requested State shall conduct criminal proceedings in accordance with their national legislation.

Content of the Request for Transfer of Criminal Proceedings

Article 21

(1) A request for taking over of criminal proceedings shall describe the facts of the case and shall indicate the fullest possible data about the defendant, their citizenship and permanent or temporary residence.

(2) The following shall be attached to the request:

1. original files or their certified copies;

2. if possible proof of citizenship and permanent or temporary residence of the person whose takeover of prosecution is requested;

3. excerpt of the criminal law provisions applicable in the requesting State in that criminal matter;

4. statements of the injured parties, if applicable;

5. items of evidence, if any exists.

(3) The statement of the injured party, which is required to initiate criminal proceedings in the requesting State, shall also have legal effect in the requested State.

(4) If the requested State does not accept the request for takeover of criminal proceedings, it shall notify the requesting State, stating the reasons for refusal and shall return the files and items of evidence which were submitted with the request.

Effects of the Transfer of the Criminal Proceedings in the Requesting State

Article 22

The judicial authorities of the requesting State shall temporarily waive prosecution measures for offences listed in the request for takeover of criminal proceedings. Such measures shall in any event be waived if:

1. the court of appropriate jurisdiction or competent authority of the requested State had discontinued criminal proceedings with final force and effect owing to lack of evidence or because the act committed is not a criminal offence;

2. the defendant was acquitted further to a decision with final force and effect in the requested State;

3. the sentence that was passed in the requested State was already enforced or enforcement cannot be conducted under the law or because of a pardon or amnesty, or if it was barred by the statute of limitations under the law of the requested State.

Notification on the Decision in regards to the Transfer of Criminal Proceedings
Article 23

The requested State shall notify the requesting State of the outcome of criminal proceedings in connection with a request for takeover of criminal proceedings, and for that purpose it shall deliver the original or a certified transcript of the decision having final force and effect.

CHAPTER THREE
FINAL PROVISIONS

Settlement of Disputes
Article 24

Any dispute that may arise upon the application or interpretation of this Agreement shall be settled by means of consultation between the competent authorities or through diplomatic channels.

Entry into force, Amendment and Termination
Article 25

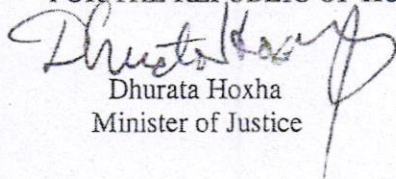
(1) This Agreement shall enter into force on the first day of the next month after the date of receipt of the last written notification by which the Parties notify each other through diplomatic channels that their internal legal procedures necessary for its entry into force have been completed.

(2) This Agreement is concluded for an indefinite period of time. Either Party may terminate the Agreement by written notice through diplomatic channels. The Agreement shall expire 6 months after the receipt of such written notice of termination.

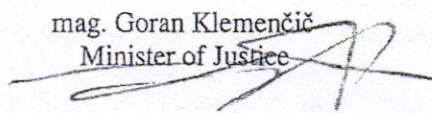
(3) This Agreement may be amended at any time by written agreement between the Parties. Any such amendment shall enter into force in compliance with the procedure provided in paragraph 1 of this Article.

Done in SLOVENIA on 28.10.2016 in two originals, in the Albanian, Serbian, Slovenian and English languages, all being equally authentic. In case of different interpretation, the English text shall prevail.

FOR THE REPUBLIC OF KOSOVO


Dhurata Hoxha
Minister of Justice

FOR THE REPUBLIC OF SLOVENIA


mag. Goran Klemenčič
Minister of Justice