

Law No. 05/L -003

**ON THE ELECTRONIC SUPERVISION OF PERSONS WHOSE MOVEMENT IS LIMITED BY
THE DECISION OF THE COURT**

Assembly of Republic of Kosovo;

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

Approves

**LAW ON THE ELECTRONIC SUPERVISION OF PERSONS WHOSE MOVEMENT IS
LIMITED BY THE DECISION OF THE COURT**

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose**

The purpose of this law is to regulate the use of electronic supervision in the criminal justice process in order to enhance public safety and ensure effective execution of decisions of the court, by fully respecting the rights of the persons involved.

**Article 2
Scope**

1. This law is applied for the electronic supervision of persons who by a court decision have been enforced:

1.1. measures to ensure presence of the defendant, foreseen by Articles 176, 177, 178 and 183 of the Criminal Procedure Code;

1.2. protection or emergency protection orders foreseen by Article 5 of the Law for Protection from Domestic Violence.

**Article 3
Definitions**

1. The term used in this law shall have the following meanings:

1.1. Electronic supervision - mechanism which guarantees effective implementation of the

decisions of the court, by determining in real-time the location of a person through the utilization of electronic devices placed on his body;

1.2. Device - the electronic equipment placed on the body of the person and which enables to determine his location in real-time;

1.3. Close person - the person who has close family relation with the subject straightaway without limits and in line indirectly until the third degree and also living in the same house with him;

1.4. Operation room - the office established within Kosovo Police, carrying out the Electronic supervision for the collection, processing and reporting of the data received from the device and which enables effective implementation of the court;

1.5. Person- the person placed under Electronic supervision, as determined by this law.

Article 4

Electronic Supervision Principles

1. The activity of Electronic supervision bodies is grounded on the principle of:

1.1. lawfulness;

1.2. protection of public order and security;

1.3. guaranteeing the personal liberty of the injured by the criminal act or of the victim;

1.4. respecting the fundamental human rights and freedoms;

1.5. non-discrimination;

1.6. electronic supervision proportionality with the case circumstances and the personality of the person;

1.7. objectivity and effectiveness.

CHAPTER II

UTILIZATION OF ELECTRONIC SUPERVISION

Article 5

Initiative for the utilization of electronic supervision

The court decides on the utilization of electronic supervision upon request of the prosecutor, of the person, of his defense counsel, parents or the juvenile's custodian.

Article 6

Consent of the person

1. Prior to issuing the final decision of the court, or of a decision for the measures to ensure the presence of the defendant, the court asks the person whether he gives the consent for the utilization of Electronic supervision and explains him the rights and obligations stemming from its utilization, foreseen with this law.
2. Utilization of Electronic supervision is determined only upon the consent of the person and after the court is assured that he understands rights and obligations stemming from the utilization of the Electronic supervision.
3. The consent of the person for the utilization of Electronic supervision is issued in writing or through the statement at the court session. In the case when the person is a juvenile, the consent should be provided in the same form also by his parents or legal custodian.
4. If the person does not give his consent, according to paragraph 2. of this Article, the court cannot decide to utilize Electronic supervision.
5. Exceptionally from paragraph 2. of this Article, the court may decide to utilize Electronic supervision even without the consent of the person in the case foreseen by Article 2, paragraph 1, sub-paragraph 1.2 of this Law, if it deems as mandatory in guaranteeing constitutional rights of third parties and when there is reasonable suspicion, that the subject poses danger to the impingement of these rights.
6. An appeal may be filed against the decision from paragraph 5. of this Article at the Court of Appeal.

Article 7

Assigning the Close Person

When necessary and possible, the person assigns another close person of his who shall assist in implementing the decision for the utilization of Electronic supervision. If the consent for such an assignment is provided, the close person is required to make his exact address and telephone numbers available for the court and the body carrying out the Electronic supervision and these should be available at all times.

Article 8

The decision for the utilization of Electronic supervision

1. Utilization of Electronic supervision is ordered by the court through a court decision issued to person in cases foreseen in Article 2 of this law.
2. During the judgment prior to issuing the decision, the court may require from the Probation Service a pre-punitive report for the defendant and the need to use Electronic supervision.
3. The deadline of the timeframe of the Electronic supervision is determined by a court decision. The deadline of the electronic supervision timeframe shall not be longer than one (1) year.

Article 9
Content of the Decision

1. The court decision authorizing the use of Electronic supervision, apart from what is foreseen by the Criminal Procedure Code should also contain:

1.1. the subject's consent, when required by law, or from parents or the custodians of the juvenile for the utilization of the Electronic supervision;

1.2. person's permissible and prohibited movement zones;

1.3. the requirement of the person to remain within the permissible zone or to not enter prohibited zones;

1.4. the time of Electronic supervision utilization;

1.5. notification for the person that in case of disrespect of conditions from paragraph 1. of this Article its measures may be revoked.

CHAPTER III
IMPLEMENTATION OF ELECTRONIC SUPERVISION

Article 10
The Electronic supervision implementing body

1. Kosovo Police implements the Electronic supervision and is responsible for the placement, removal and proper functioning of the device.

2. The location, time and rules for the placement and removal of the device are determined in the order for the execution of the court decision who immediately notify the person and the body implementing the Electronic supervision.

3. The Electronic supervision implementing body, through the operation room, shall collect, process and report the data transmitted by the device.

4. The criteria which the Electronic supervision implementing body should meet, its rights and obligation are determined by sublegal act issued from the Minister of Justice.

Article 11
Kosovo Police

1. Kosovo Police is the responsible body to control the Electronic supervision implementing manner.

2. Kosovo Police shall make available before the court updated data for the Electronic supervision implementation under the request of the Court and Probation Service.

3. The Electronic supervision implementation and the reporting manner of the Kosovo Police shall be determined with a sub-legal act issued by the Ministry of Internal Affairs.

Article 12

The device for the implementation of Electronic supervision

1. The Electronic supervision is implemented through the placement of a special device on the person's body, which should:

1.1. be of small dimensions in order to be easily covered by clothing and not be seen by others;

1.2. not emit sounds or light;

1.3. be composed of materials non-hazardous to the life and health of the person and of other persons;

1.4. be placed on a part of the body which makes it impossible to be seen by others;

1.5. allow the person to perform all his ordinary activities without difficulties.

2. The device should meet the following technical features below:

2.1. be capable of transmitting the signal from any part of the territory of the Republic of Kosovo;

2.2. have high resistance against nature elements which enables it a normal functioning even when exposed against them for longer time periods;

2.3. be difficult to remove;

2.4. transmit a special signal if damaged or removed.

Article 13

Operation Room

1. The operation room shall have the technical capability to obtain real-time information on the location of persons within the territory where the Electronic supervision implementing body has competence.

2. The information obtained by the device shall be transmitted directly to the operation room which operates around the clock.

3. The Electronic supervision implementing body ensures an uninterrupted functioning of the operation room and its real-time connection with the device which determines the location of the person.

Article 14

Information transmitted to the operation room

1. The information obtained by the device appears on maps which enable the ongoing identification of the person's location in compliance with the road and administrative system of the Republic of Kosovo.
2. The information displayed on maps and its visualization is prohibited if the person remains within the permitted zone or outside of the prohibited zone of movement.
3. The information about the person's location is displayed on map only if:
 - 3.1. the person trespasses the permitted zone boundary or enters into the prohibited zone of movement as determined by the court decision ordering the utilization of Electronic supervision;
 - 3.2. the person is suspected to have violated the terms established in the court decision;
 - 3.3. a possible danger towards the person or other persons must be evaded;
 - 3.4. the person may have damaged or removed the device;
 - 3.5. the device has been accidentally damaged and does not properly transmit information.

Article 15

Information Confidentiality

1. While exercising its activities, the Electronic supervision implementing body shall respect rules determined by the applicable legislation for the protection of personal data.
2. The information obtained about the location of the person is prohibited from being shared with third parties or bodies or agencies not authorized by this law.

CHAPTER IV

ENFORCEMENT OF THE DECISION FOR THE UTILIZATION OF ELECTRONIC SUPERVISION

Article 16

Person's Obligations

1. The subject is obliged to:
 - 1.1. implement conditions determined by court decision;
 - 1.2. make available for the court and the Electronic supervision implementing body, the exact address of residence and work, as well as contact phone numbers which should be available at all times;

1.3. return within the permitted movement zone or leave the prohibited zone within fifteen (15) minutes from the time when contacted by operation room;

1.4. not damage or remove the device in any circumstance;

1.5. immediately notify the Electronic supervision implementing body for any accidental damage of the device or of its improper functioning.

Article 17

Actions in cases of violation of the decision of the court

1. When the information on the map records the exit from the permitted zone or entry into the prohibited movement zone, as well as the damaging or removal of the device, the operation room shall immediately contact the person. If the latter cannot be contacted, the operation room shall contact the close person assigned on the decision of the court.

2. If, within fifteen (15) minutes from the moment when contacted by the operation room, the person returns into the permitted zone or moves away from the prohibited zone, then no further action shall be taken. In this event, the operation room records this fact in a separate register.

3. In the event when the person or the close person cannot be reached, the operation room shall immediately notify the state police to whom it conveys the information on the location of the person. Within twenty four (24) hours the operation room notifies the court and prosecution office on the violation and actions committed by it.

4. Information obtained in cases foreseen by this article is stored for a six (6) month period starting from the time the violation is recorded. The prosecutor or court may order that stored information be preserved for longer than six (6) months.

5. It shall not be recorded as a violation of conditions of Electronic supervision utilization in the events when the court or prosecution office communicated to the operation room in writing the authorization issued to the person to exit the permitted zone or to enter into the prohibited zone.

6. The authorization shall contain the exact determination of the zone where the subject is permitted to move and the timeframe of moving permit.

7. Detailed rules for the criteria on issuing authorizations are determined by a sub-legal act issued by the Minister of Justice.

Article 18

Violation of Electronic supervision conditions

1. The Kosovo Police notify the respective court as soon as they receive notification of the violation of Electronic supervision conditions.

2. The Police, when it concludes that the violation of Electronic supervision utilization conditions is intentional or repetitive, drafts a report and presents it to the court within forty eight (48) hours.

3. The detailed report drafted in cases foreseen in paragraph 2. of this Article is presented to the same court which has decided on the utilization of Electronic supervision.

4. The Court after reviewing all circumstances decides for continuing or not the Electronic supervision.

CHAPTER V TRANSITORY PROVISIONS

Article 19 Sub-legal acts

Ministry of Justice within six (6) months after the entry into force of this law, shall issue sub-legal acts for its implementation.

Article 20 Entry into Force

This law shall enter into force fifteen (15) days after its publication on the Official Gazette of the Republic of Kosovo and will start to be applied from 1st of July 2015.

**Law No. 05/L -003
7 May 2015**

Promulgated by Decree No. DL- 007-2015, dated 27.05.2015, President of the Republic of Kosovo Atifete Jahjaga.