

LAW No.03/L –187

ON FORENSIC MEDICINE

Assembly of Republic of Kosovo,

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

Approves

LAW ON FORENSIC MEDICINE

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose of Law**

1. The purpose of this Law is to regulate the procedure for the performance of forensic examinations under the authority of the Department of Forensic Medicine.

2. All forensic experts shall perform their duties, independently, impartially from any influence and shall adhere to principles of professional confidentiality regarding the collected information, analysis and other data for which they learn during their official duty and they shall not restrain themselves to discriminating practises, in compliance with the Law.

**CHAPTER II
PERFORMANCE OF FORENSIC EXAMINATIONS**

**Article 2
Experts who perform forensic examinations**

1. All forensic examinations shall be performed by the certified specialist (expert) of forensic medicine.

2. Forensic examinations may be performed also by a person who is specialising in forensic medicine under the supervision of a forensic specialist.

**Article 3
The Location for the performance of forensic examinations**

1. All forensic examinations are performed in the premises of the Department of Forensic Medicine.

2. In exceptional cases court may order the performance of forensic examinations outside of the premises of the Department of Forensic Medicine, after the appropriate conditions are provided.

Article 4

1. Forensic autopsy shall be performed only based on the order issued by the competent court.

2. Forensic autopsy is performed but not limited to the following cases:

2.1.homicide or suspected homicide

- 2.2. sudden unexpected death,
 - 2.3. suspicion for torture or any other form of ill treatment;
 - 2.4. suicide or suspected suicide;
 - 2.5. suspicion during medical treatment
 - 2.6. accidents, whether during transportation, work related or domestic;
 - 2.7. occupational diseases and hazards;
 - 2.8. technological or environmental disasters;
 - 2.9. death during custody , detention, detainment and imprisonment
 - 2.10. death associated with police or military activities
 - 2.11. unidentified bodies or skeletons;
 - 2.12. death during surgery, or within twenty-four (24) hours after the surgery, anaesthesia , or any other medical intervention;
3. The Autopsy report shall be an integral part of the procedures of forensic autopsy.
 4. The Autopsy report shall be signed by the specialist or by the members of panel of forensic experts who have performed the autopsy.

Article 5
Term for performance of forensic examinations and autopsy

1. All forensic examinations shall be performed without delay.
2. A Forensic Autopsy may not be performed earlier than six (6) hours after the ascertainment of death by the doctor.
3. All forensic autopsy reports shall be completed and signed ten (10) days after the receipt of laboratory results. While, the final report of the experts of forensic medicine shall be compiled within three (3) working days after the forensic clinical examination.
4. In exceptional cases, the time limits determined in paragraph 3 of this Article may be extended with the written approval of the Director of the Department of Forensic Medicine. The written approval shall clearly state the reasons for extending the time limits.
5. All forensic examinations are considered completed when forensic specialist prepares and signs the final report.

Article 6
Forensic Autopsy expenses

The expenses of the autopsy shall be carried by the body or entity that gives the order or request to perform an autopsy.

CHAPTER III
IMPARTIALITY, PROFESSIONAL CONFIDENTIALITY AND BENEFITS

Article 7
Confidence of Information

1. Information collected during the performance of forensic examinations shall be kept in confidence from the public opinion.
2. Disclosure of information foreseen in paragraph 1 of this Article shall be done only with court order issued by a competent court.
3. All data collected by the Department of Forensic Medicine shall adhere to the Law on protection of personal data.

Article 8
Investigation and judicial bodies obligations for forensic autopsy

1. Investigation and judicial bodies that are aware for the cases for which a forensic examination is required shall immediately inform the Department of Forensic Medicine.
2. Investigation authorities shall provide the Department of Forensic Medicine with any fact, biological sample, original document or any other material which may assist the forensic medical expertise.
3. The Forensic Department shall assume the custody of the dead body, clothing, biological samples and any other material related with the scene of death which may assist the forensic expertise.

Article 9
Exhumation

Exhumation of the body or body parts shall be done by the Department of Forensic Medicine only with the court order.

Article 10
Burial and Release of body and personal items

1. After the autopsy is conducted, the identified dead body, parts of body and mortal remains shall be handed over to family members unless it is necessary to keep them for further forensic investigations or examinations.
2. The Department of Forensic Medicine shall ask order from the court authorities on whose request the autopsy was performed, to bury the deceased in the following cases:
 - 2.1. if the dead body or parts of a dead body are not identified even after exhausting all available means, within six (6) months;
 - 2.2. if there are no identified family members to claim the body or body parts;
 - 2.3. if the identified family members refuse to take the identified dead body or body parts;
 - 2.4. if, for any other reason, it is not possible to hand over the body or body parts to family members for burial.
3. The Department of Forensic Medicine shall hand over to the police any item found on the body, including clothes and personal items, which were not previously collected by the police at the crime scene.

Article 11
Forensic Clinical examination

1. The Department of Forensic Medicine shall perform all forensic clinical examination, which may include but are not limited in:
 - 1.1. determination of the means and the level of body injuries;

- 1.2. determination of the work capability, health condition, age and identity
 - 1.3. determination of the sexual condition, virginity test and examination of victims of sexual offences against sexual integrity;
 - 1.4. determination of paternity and maternity tests;
 - 1.5. suspected child abuse;
 - 1.6. body injuries;
 - 1.7.traumas as a consequence of the use of alcohol and narcotic psychotropic substances;
 - 1.8. suspected illegal abortions;
 - 1.9 suspected non accidental injuries;
 - 1.10. suspected illegal organ, tissue and cell transplants.
2. Forensic Clinical Examinations shall be performed on the victim and the suspected perpetrator.
 3. The forensic clinical examination shall be performed only after informing the patient for the nature of the examination to be performed and after obtaining a written consent from the patient. In case of refusal without any reason, the provisions of penal procedure code are applicable.
 4. When patient is under age of eighteen (18) or is not in position to give consent, the foreseen consent under paragraph 3 of this Article shall be obtained from the parent or legal representative of the patient.
 5. Forensic Clinical examinations pursuant to paragraph 3 and 4 of this Article are performed with the request in writing from the investigation and judicial authorities.

Article 12 Assistance

1. If during the post mortem examination, the Forensic Specialist identifies that the expertise of specialists of other fields is required, an expert panel shall be formed by the Department of Forensic Medicine.
2. The composition of the expert panel and its rules of procedure shall be regulated by internal rules of the Department of Forensic Medicine.

Article 13 Forensic Operational Procedures

1. All forensic examinations procedures shall be conducted in compliance with the Law and internal regulations (SOPs) issued by the Department of Forensic Medicine.
2. All activities related with forensic medicine including forensic toxicology, histopathology, anthropology, psychiatry, biology and all other fields can be regulated with internal regulation of the Department of Forensic Medicine.
3. Forensic Examinations Procedures determined in internal rules of the Department of Forensic Medicine shall include, but shall not be limited to:
 - 3.1. presence of forensic expert at death scene or at the scene of finding the dead body;
 - 3.2. chain of custody of mortal remains and evidence collected at the death scene;
 - 3.3. handling or repatriation of mortal remains;
 - 3.4. forensic autopsies;
 - 3.5. site assessment , excavations and exhumations;

- 3.6. collection, storage, analysis and provision of human tissue for forensic histopathology purposes;
- 3.7. forensic toxicological analysis ;
- 3.8. documentation and certification of examinations ;
- 3.9. forensic reportings;
- 3.10. storage and analysis of human skeletal remains;
- 3.11. composition of forensic experts panel;
- 3.12. forensic clinical examinations which require the application of forensic nurse services;
- 3.13. collection of bodily fluids of living patients;
- 3.14. identification;
- 3.15. repatriation, storage and analysis of human tissue and fluid samples;
- 3.16. dental examinations;
- 3.17. processing, recording, and storage of personal effects;
- 3.18. sending samples to forensic laboratories;
- 3.19. identifying, processing, and handling of Mass Fatalities;
- 3.20. Mass Disaster Management with the assistance towards civil societies;
- 3.21. scientific Research, forensic education and training;
- 3.22. forensic archaeology and anthropology education and training.

Article 14 Working hours

- 1 Considering the specific working conditions and the high risk for the health, the staff of the Department of Forensic Medicine can not spend more than six (6) hours in the process of autopsy or other examinations.
2. The issue of the payment of staff on call, foreseen by paragraph 1 of this Article, is regulated with a special sub-legal act, issued by the Government.
3. The staff of the Department of Forensic Medicine pursuant to paragraph 1 of this Article shall receive an additional payment to personal income.
4. The categorization of the level of additional income pursuant to paragraph 2 of this Article is regulated with a special sub-legal act, issued by the Government.

Article 15 Working overtime and attendance in court hearings

1. The extra working hours of forensic experts are compensated for each case separately, from the court that has requested the forensic expertise in compliance with a special sub-legal act, which is issued by the Government.

2. For each attendance at the court hearing, the forensic expert will be compensated, in compliance with the sub legal act, issued by the Government.

**Article 16
Liability**

For violation of this Law, forensic experts are subject to disciplinary measures and/or penal sanctions according to applicable Law.

**CHAPTER IV
TRANSITIONAL AND FINAL PROVISIONS**

**Article 17
The Issuance of sub-legal acts**

The sub-legal acts for the implementation of this Law will be issued within six (6) months from the day of the entry into force of this Law.

**Article 18
Repeal**

After entry into force of this Law, all legal provisions with which the issue of forensic medicine is regulated shall be repealed.

**Article 19
Entry into force**

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

**Law No.03/L –187
29 April 2010**

Promulgated by the Decree No. DL-019-2010, dated 13.05.2010, of the President of Republic of Kosovo, Dr. Fatmir Sejdiu.