

LAW NO. 04/L-274

ON RATIFICATION OF THE INTERNATIONAL AGREEMENT BETWEEN THE REPUBLIC OF KOSOVO AND THE EUROPEAN UNION ON THE EUROPEAN UNION RULE OF LAW MISSION IN KOSOVO

Assembly of Republic of Kosovo,

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

Recognizing the dedication of Kosovo institutions to advance the rule of law in Kosovo, the need to increase their capacities, their willingness to cooperate with the European Union in this regard, and the continued support of the European Union through EULEX to achieve these objectives,

Approves:

LAW ON RATIFICATION OF THE INTERNATIONAL AGREEMENT BETWEEN THE REPUBLIC OF KOSOVO AND THE EUROPEAN UNION ON THE EUROPEAN UNION RULE OF LAW MISSION IN KOSOVO

**Article 1
Purpose**

1. This Law ratifies the international agreement achieved through the exchange of instruments between the Republic of Kosovo and the European Union, on the European Union Rule of Law Mission in Kosovo, ("EULEX").

2. This Law ratifies the International Agreement in its entirety, including, but not limited by:

2.1. the extension of the EULEX mandate in areas envisaged by the Agreement until 15 of June 2016, and with the exception of the Special Investigative Task Force. The mandate and independence of SITF will be guaranteed as per agreement.

2.2. the delegation of the authority to appoint international judges and prosecutors, in accordance with the Constitution, Article 20, subject to Presidential confirmation of appointment following endorsement by the Kosovo Judicial Council respectively Kosovo Prosecutorial Council, and the creation of a framework for the establishment of a system of registration for EULEX staff permitted to carry weapons; and

2.3. the guaranteeing of the privileges and immunities of the offices and personnel of EULEX and the EU Special Representative, ("EUSR"), pursuant to Law No. 03/L-033 on the Status, Immunities, and Privileges of the Diplomatic and Consular Missions and Personnel in Kosovo and of the International Military Presence and its Personnel.

**Article 2
Scope**

The International Agreement between the Republic of Kosovo and the European Union shall be an integral part of this Law (Annex 1) and shall be implemented by the Republic of Kosovo and the European Union.

Article 3
Entry into force

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

Law No. 04/L-274
23 April 2014

Promulgated by Decree No.DL-022-2014, dated 07.05.2014, President of the Republic of Kosovo Atifete Jahjaga.



REPUBLIKA E KOSOVËS – PRESIDENTI

REPUBLIC OF KOSOVO – THE PRESIDENT

REPUBLIKA KOSOVO – PREDSIEDNIK

Stamp from the Office of the President of the Republic of Kosovo, Pristina. The stamp includes the text: REPUBLIKA E KOSOVËS, REPUBLIKA KOSOVO, REPUBLIC OF KOSOVO, ZYRA E PRESIDENTIT, URE E PREDSEDNIKUT, OFFICE OF THE PRESIDENT, KABINETI - KABINET - CABINET. It also contains handwritten information: Nr. Prot. / Br. Prot. / Prot. No. 346, Dera. Datum / Date 14.04.2014, and PRISTINE/A.

Prishtina, 14 April 2014

H.E. Baroness Catherine Ashton
High Representative of the Union for Foreign Affairs and Security Policy

Your Excellency,

I would like to express to you our most sincere gratitude for the continued contribution of the European Union to the stability and prosperity of Kosovo.

In accordance with Articles 17(1), 18(1) and 20(1) of the Constitution of the Republic of Kosovo, we welcome the renewed presence of the Rule of Law Mission of the European Union in Kosovo ("EULEX KOSOVO"), as discussed and agreed with Kosovo institutions.

I support the transitioning of EULEX KOSOVO mandate, including on the "normally no new case" policy. All rule of law institutions will be headed by Kosovo officials. EULEX judges and prosecutors shall be embedded in Kosovo institutions and serve in accordance with Kosovo law. Judicial panels will in principle be composed of a majority of Kosovo judges with exceptions for a reverse majority provided by law.

We continue to fully support EULEX KOSOVO mandate as set out in Joint Action 2008/124/CFSP, adopted by the Council of the European Union on 4 February 2008 as amended and our mutual letters of 4 September 2012.

In line with and for the duration of its mandate, EULEX KOSOVO will continue to assist in the implementation, where agreed, of the EU-facilitated Dialogue between Kosovo and Serbia.

In the spirit of good faith and to demonstrate our commitment to EULEX KOSOVO's mandate and support to its mission, I invite Your Excellency, with this letter and under the authority of Articles 19 and 20 of the Constitution of the Republic of Kosovo, to reply with an expression of the EU's willingness to continue providing experienced and knowledgeable prosecutors, judges and police to serve in EULEX KOSOVO under the provisions of this letter.

Article 20 of the Constitution of the Republic of Kosovo permits the Republic to delegate certain powers for specific matters to international organizations. As President, it is my duty to ensure that any such delegations are clearly enumerated. Therefore, I confirm that the following powers would be delegated to EULEX KOSOVO under Article 20 of the Constitution of the Republic of Kosovo: (a) to appoint judges under Articles 65, 108, 114 and 84 of the Constitution respectively, subject to Presidential confirmation of appointment following endorsement by the Kosovo Judicial Council and (b) to appoint prosecutors under Articles 110 and 84 of the Constitution respectively, subject to Presidential confirmation of appointment following endorsement by the Kosovo Prosecutorial Council.

The EULEX judges and prosecutors would be authorized as described in Articles 104, 109 and 114, respectively, of the Constitution of the Republic of Kosovo and other relevant law. I confirm the appointments of EULEX judges, appointed pursuant to our previous exchange of letters, and prosecutors serving under EULEX KOSOVO as well as the international judges serving in the Constitutional Court and appointed by the International Civilian Representative, as of the date of this letter upon completion of the aforementioned procedure.

Furthermore, EULEX KOSOVO may wish to appoint all the aforementioned judges and prosecutors to replace those whose terms will expire. Such appointments shall be conducted in the manner described above.

The same procedure will apply for those Judges for property issues (Kosovo Property Agency – KPA- Appeals Panel) appointed by the EU Special Representative and the handling of cadastral records as per Dialogue conclusions.

The EU Special Representative will also conduct final appointments of the following positions: three (3) KPA/KCVA Supervisory Board Members, two (2) KPCC (Kosovo Property Claims Commission) international members, three (3) KPVAC (Kosovo Property Verification and Adjudication Commission) members including one non-majority member representative.

EULEX police officers shall also have authority, upon notification of their names to the Minister of Internal Affairs to operate at central (including ministerial), regional, and local levels. EULEX staff are authorized to carry weapons where relevant. The existing system of registration of weapons carried by a limited number of authorized mission staff will be maintained, per our previous exchange of letters. EULEX police will continue to serve in accordance with Kosovo law and closely coordinate and consult with the Kosovo police director-general.

In my letter to you of 4 September 2012, I also confirmed that the work of EULEX KOSOVO's Special Investigative Task Force ("SITF") shall continue until such time as Kosovo is notified by the Council of the European Union that the investigations have been concluded or any proceedings resulting there from have been concluded.

If the SITF investigation culminates in an indictment and trial proceedings, an environment conducive to the proper administration of justice should be provided. Accordingly, a specialist court within the Kosovo court system and a specialist prosecutor's office would be

used for any trial and appellate proceedings arising from the SITF investigation. This court would have a seat in Kosovo, but sensitive proceedings, including hearing of witnesses, would take place outside of the country in view of the nature of the allegations. In addition, filings and sensitive records would be introduced and maintained exclusively outside the country.

To allow such proceedings to operate, Kosovo will set up dedicated separate judicial chambers, which would be relocated to a third State pursuant to an Agreement with that State and which would include all levels of the court system, including the Constitutional Court, for any criminal proceedings, that arise out of the SITF's work.

These structures will be governed by their own statute and rules of procedure and evidence, including provisions on the limitations on the issuance of pardons, detention on remand and the service abroad of sentences of imprisonment if the trial results in convictions. The structures will be staffed with and operated by EULEX international staff only. Concurrent with consideration of these commitments, Kosovo undertakes to adopt appropriate legislation to allow for the establishment and operation of the dedicated judicial chambers in accordance with the terms above. Such re-location will require the negotiation and ratification by host State and Kosovo of an agreement on the status of the Court in that country. Kosovo shall undertake all reasonable efforts to conclude such a Host State Agreement and have it ratified in Kosovo without delay. All legal measures undertaken by Kosovo to establish a specialist court within the Kosovo court system and a specialist prosecutor's office in connection with SITF, as outlined above, including any constitutional amendments as needed, will be adopted in accordance with Kosovo law and subject to Constitutional Court review.

With due regard to our commitment to further strengthen the rule of law in Kosovo, and in accordance with Articles 17(1), 18(1), 19 and 20(1) of the Constitution of the Republic of Kosovo, I invite your Excellency to reply with an expression of the EU's willingness to assist Kosovo in this matter by operating the judicial chambers and the specialist prosecutor's office through EULEX KOSOVO. EULEX KOSOVO will be delegated all necessary powers and mandates to operate the separate judicial chambers and specialist prosecutor's office in Kosovo and in the Host State. Selection and appointment of Judges and Prosecutors assigned to the judicial proceedings following from SITF investigation will in this respect remain regulated by the terms of our exchange of letters dated 4 September 2012. EULEX judges and prosecutors would be appointed by EULEX Head of Mission following an independent selection process.

EULEX KOSOVO, its offices and personnel (including experts on mission and those exercising functions at the dedicated judicial chambers and specialist prosecutor's office), as well as the EU Special Representative (EUSR), his offices and personnel (including experts on mission), are granted the status, privileges and immunities equivalent to those set out in the Vienna Convention dated 18 April 1961 as implemented by *Law NR 3/L - 033 on the Status, Immunities and Privileges of Diplomatic and Consular Missions and Personnel and of the International Military Presence and its Personnel* in Kosovo.

I look forward to your response agreeing with the contents of this letter of invitation.

We will undertake, in accordance with the Constitution and applicable Kosovo law, with the EULEX KOSOVO Head of Mission and/or the EUSR (as applicable) any supplementary commitments and modalities necessary to facilitate the effective functioning of EULEX KOSOVO, including consultations in the process of amending laws having an impact on the discharge of EULEX KOSOVO mandate as well as for the judicial proceedings arising from SITF investigation, and the EUSR in implementing their mandate. We will inform the EULEX KOSOVO Head of Mission and/or the EUSR upon the satisfaction of those supplementary commitments and modalities, including satisfaction of Article 18 of the Constitution and the subsequent commencement of the obligations under this letter.

I would like to reiterate to you our full commitment to the rule of law for all our people. I thank you for your continued contribution to Kosovo's peace and stability and look forward to continuing our close cooperation to contribute to a multiethnic democratic and prosperous Kosovo, and to bring Kosovo closer to full integration in the European Union.

This invitation will support EULEX KOSOVO under its current mandate until 15 June 2016. With the exception of the provisions on SITF and any judicial proceedings deriving from it, this would be the expected end date for EULEX KOSOVO.

Notwithstanding EULEX KOSOVO end of mandate, I hereby confirm that the work of and the mandate delegated in order to operate the aforementioned judicial chambers and specialist prosecutor's office, with dedicated EULEX KOSOVO judges, prosecutors and support staff, shall continue until such time as Kosovo is notified by the Council of the European Union that the investigations have been concluded and that any proceedings by the judicial chambers resulting there from have been concluded.

Sincerely,



Atifete Jahjaga

President of the Republic of Kosovo