

**Law No. 05/L -035**

**ON AMENDING AND SUPPLEMENTING THE LAW No. 03/L-224 ON KOSOVO  
PROSECUTORIAL COUNCIL**

**Assembly of the Republic of Kosovo;**

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

Adopts:

**LAW ON AMENDING AND SUPPLEMENTING THE LAW No. 03/L-224 ON KOSOVO  
PROSECUTORIAL COUNCIL**

**Article 1**

1. Article 2 of the basic Law, paragraph 1, sub-paragraph 1.4, the words “or Head of the Special Prosecution Office” shall be deleted from the text of the Law.

2. Article 2 of the basic Law, after the sub-paragraph 1.7 there shall be added a new sub-paragraph 1.8 with the following text:

**1.8. Prosecutors Performance Assessment Committee** - a Committee established by Kosovo Prosecutorial Council.

**Article 2**

1. Article 4 of the basic Law, paragraph 1, sub-paragraph 1.11 shall be deleted from the text of the Law.

2. Article 4 of the basic Law, paragraph 1, after sub-paragraph 1.27 there shall be added the new subparagraphs 1.28, 1.29, 1.30, 1.31, 1.32, 1.33 with the following text:

1.28. issuance of the regulation on determining the procedures and rules for the organization of the exam for prosecutor candidates;

1.29. issuing the regulation on the procedure of selecting the Chief State Prosecutor, and the appointment of the Chief prosecutors of prosecution offices;

1.30. issuing the regulation on the internal organization of the prosecution offices;

1.31. announcing and organizing the exam for prosecutor in cooperation with the institution that organizes trainings in compliance with the legislation in force;

1.32. guaranteeing an open and liable system of administration of its decisions and entire prosecutorial system;

1.33. reporting before the public regarding the implementation of its objectives determined in a specific manner and based on measurable indicator every six (6) months.

### Article 3

Article 5 of the basic Law shall be reworded with the following text:

1. Kosovo Prosecutorial Council (hereinafter: the Council) shall be composed of thirteen (13) members with a five (5) year term as follows:

1.1. ten (10) members from among prosecutors and that:

1.1.1. Chief State Prosecutor;

1.1.2. seven (7) prosecutor members from Basic Prosecution Offices, represented by one (1) member, elected by the prosecutors of that respective prosecution office;

1.1.3. one (1) prosecutor member from Appellate Prosecution Office elected by the prosecutors of that respective prosecution office;

1.1.4. one (1) prosecutor member from Special Prosecution Office elected by the prosecutors of that respective prosecution office;

1.2. one (1) member, advocate from the Kosovo Chamber of Advocates;

1.3. one (1) member, university professor of law;

1.4. one (1) member, representative from civil society.

1.5. members of the Council from paragraph 1.1 of this Article, except the Chief State Prosecutor, may not exercise at the same time the function of Chief Prosecutor of any prosecution office.

2. Three (3) non-prosecutors members of the Prosecutorial Council, elected by the Assembly of the Republic of Kosovo according to Article 65 (10) of the Constitution, shall be elected by a secret ballot, with the majority of votes of all deputies of the Assembly, based on a list of at least three (3) candidates for each position proposed by relevant bodies and that includes:

2.1. one (1) member from the Kosovo Chamber of Advocates;

2.2. one (1) professor from the law faculties of Republic of Kosovo;

2.3. one (1) representative from civil society. The representative of the civil society shall be selected through a public competition announced by KPC, who should have

a high professional qualification in the field of law, knowledge in the field of human rights, working experience in legal issues of five (5) years, politically independent for at least three (3) last years and who has the support of at least five (5) civil society organizations of law field.

3. Council members shall 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.

4. The Chairperson and Vice Chairperson of the Council shall be elected from amongst prosecutor members of the Council, with a three (3) year mandate, without the right of re-election. Being elected in this position does not extend the mandate of a Council member.

5. The Chairperson of the Council shall suspend the position of state prosecutor and shall be entitled to return to the service as a prosecutor of the prosecution office in which he/she had served before being elected as Chairperson of the Council.

6. Council members shall be entitled to compensation. The Council shall approve the compensation scheme for members of the Council that does not exceed twenty-five percent (25%) of the basic salary, except the Chairperson and Vice Chairperson. The member that comes from Chamber of Advocates may not exercise the function of lawyer, while he/she is a member of the Council. The salary of the member from the Chamber of Advocates shall be fixed and paid by the Chamber of Advocates.

7. During the exercise of the function as a Council member, the same cannot be promoted within the prosecutorial system.

#### **Article 4**

After Article 5 of the basic Law there shall be added the new Article 5/A with the following text:

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

##### **Chairperson and Vice-Chairperson of the Council**

1. The Chairperson of the Council serves as a full time member of the council, holding the following powers:

1.1. chairs all meetings of the Council;

1.2. approves the preparation of the agenda and points to be sent to the Council;

1.3. represents the Council before the public, government agencies and other local and international bodies;

1.4. supervises and manages the work of the Council and its Committees.

2. Chairperson of the Council shall, at least once a year, present annual public reports on the performance, activities, costs and budgetary needs of prosecutorial system;

3. Organizes the procedure of election of the members of standing committees according to this Law, by enabling to the Council a transparent and liable process of proposals and their appointment.

4. The Vice-Chairperson shall exercise responsibilities and duties of the Chairperson when he/she is absent. The Vice-Chairperson has full authority to act on behalf of the Council in case of Chairperson's absence or incapacity.

5. During their term, the Chairperson and the Vice-Chairperson of the Council shall receive the following compensation:

5.1. The Chairperson of the Council shall receive the salary as that of the Chairperson of the Judicial Council;

5.2. The Vice-Chairperson of the Council shall receive the salary as that of the Vice-Chairperson of the Judicial Council.

#### **Article 5**

After Article 8 of the basic Law, there shall be added the new Article 8/A with the following text:

#### **Article 8/A Committees of the Council**

1. The Council has its standing committees as follows:

- 1.1. Normative matters Committee;
- 1.2. Committee on Budget, Finances and Personnel;
- 1.3. Prosecution Offices Administration Committee;
- 1.4. Disciplinary Committee;
- 1.5 Prosecutors Performance Assessment Committee.

2. The Council may establish other temporary or permanent committees, as needed.

#### **Article 6**

Article 8 of the basic Law shall be reworded with the following text:

#### **Article 8 Termination and dismissal from the function of a Council member**

1. The mandate of the Council members terminates:

- 1.1. when deceased;
  - 1.2. upon loss of ability to act for more than three (3) months due to certified medical reasons;
  - 1.3. upon consistent failure to attend to Council activities for more than three (3) months;
  - 1.4. if appointed on the basis of a particular status, upon cessation of the status upon which the appointment is based;
  - 1.5. upon expiration of the mandate;
  - 1.6. upon resignation, by informing the Council with a thirty (30) days prior notice.
2. Council members shall be dismissed from their function with 2/3 and in accordance with the Regulation of the Council, while the members that are elected by the Assembly shall be dismissed upon the proposal of the Council with the majority of votes of all deputies of the Assembly, if:
- 2.1. does not perform the function of Council member in accordance with the Constitution and the law;
  - 2.2. performs the functions in contradiction with his duties and obligations; and
  - 2.3. if convicted of a criminal offence
3. If a position in the Council is vacant prior to the expiration of the mandate of a member, the vacant position shall be filled in the same manner with that of the member whose term expired. The person, other than Chief State Prosecutor, that is selected to fill the vacancy in the Council, is appointed or elected for a full five (5) year mandate.

#### **Article 7**

Article 10 of the basic Law shall be reworded with the following text:

#### **Article 10**

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

Members of the Council shall not have criminal liability for the decisions, opinions and actions taken as Council members, within the scope as members of the Council.

#### **Article 8**

Article 12 of the basic Law paragraph 2 shall be reworded with the following text:

2. The Quorum for the Council meetings is reached with nine (9) members with the right to vote. The Council's decisions are reached through a simple majority of votes from the

members present, unless otherwise provided by the Law.

#### **Article 9**

1. Article 13 of the basic Law shall be reworded with the following text:

#### **Article 13 Annual Budget**

1. The Council shall prepare the annual draft-budget and shall submit the same to the Assembly of the Republic of Kosovo for adoption.
2. The Council shall manage the annual budget for the Council and prosecution offices independently, and is responsible for overseeing expenditures, allocation of funds, maintaining of accurate and current accounts and financial audits.

#### **Article 10**

Article 14 of the basic Law shall be reworded with the following text:

#### **Article 14 The Council Secretariat**

1. The Secretariat is established to assist and implement the rules, regulations and policies of the Council related to management, budget and administration of the prosecution offices.
2. The Secretariat develops and proposes administrative rules necessary to implement the Council orders. All such rules will be submitted to the Council for adoption.
3. The Secretariat proposes to the Council new policies, rules and regulations whenever necessary for the efficient and effective administration of prosecution offices.
4. The Secretariat shall report, on regular basis, to the Council on the work of prosecution offices and provides recommendations for improvement.
5. Under the instructions of the Council and its Committee on Budget, Finance and Personnel, the Secretariat prepares a consolidated budget for the prosecution offices and administers the prosecution offices adopted budget.
6. Under the instruction of the Council and its Committee on Budget, Finance and Personnel, the Secretariat manages the administrative and support staff of prosecution offices including the allocation of administrative and support staff to prosecution offices based on work load, and maintenance of personnel records, performance assessment system, ensuring proper disciplining of prosecution offices staff and protection of their employment rights.
7. Pursuant to budgetary limitations and the instructions of the Council, the Secretariat shall ensure that the Prosecution Offices are properly supplied with the materials necessary for the efficient and effective performance of prosecution offices.

8. The Secretariat provides administrative support to the Council and its committees and undertakes other duties and powers under the Council instructions.

9. The Council develops and adopts regulations related to organizational structure and functioning of the Secretariat.

#### **Article 11**

After Article 14 the basic Law, there shall be added two new Articles 14/A and 14/B with the following text:

#### **Article 14/A**

##### **Director of the Secretariat**

1. The Director is elected, appointed and dismissed by the Council in accordance with the procedures, criteria and qualifications developed and adopted by the Council through regulations that are in accordance with Constitutional obligations, as well as obligations arising from applicable personnel regulations.

2. The Director is responsible to the Council for the efficient and effective management of the Secretariat and the prosecution offices. The Director reports directly to the Chairperson of the Council. The Director shall attend all meetings of the Council and responds to all Council requests for information.

3. The Council shall determine the salary of the Director of the Secretariat.

#### **Article 14/B**

##### **Prosecutors Performance Assessment Committee**

1. Prosecutors Performance Assessment Committee consists of prosecutors with experience and high professional and personal integrity.

2. Prosecutors Performance Assessment Committee is led by a member of the Council from prosecutors group.

3. Prosecutors Performance Assessment Committee evaluates the performance of prosecutors in accordance with Article 21 of the basic Law and Article 14 of this Law. The Committee assessment is the basis for promotion or demotion in office as well as for dismissal from office of the state prosecutors.

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

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

#### **Article 12**

Article 15 the basic Law paragraph 3 shall be deleted from the text of the Law.

### **Article 13**

Article 16 of the basic Law paragraph 3, after the words: "Review Unit", the following sentence: "The Director shall not accept additional compensation, other than reimbursement for reasonable and necessary expenses, for other duties or employment from any other source" shall be deleted.

### **Article 14**

1. Article 21 the basic Law, after paragraph 3, there shall be added the new paragraphs 4 and 5 with the following text:

4. The performance assessment of Prosecutors with initial mandate is performed at least twice during this mandate by Prosecutors Performance Assessment Committee, once after the initial training and once at the end of the initial mandate. The criteria for assessment during the initial mandate shall be specified in a Regulation issued by the Council.

5. Performance Assessment of Prosecutors with permanent mandate is performed every three (3) years, in that way that, after entry into force of this Law, the Council shall assign by draw one third (1/3) of the prosecutors, within each prosecution office, as the first group that shall undergo the performance assessment within three (3) months. The same draw shall be conducted after one (1) year in order to assign prosecutors that will belong to the second group and third group after two (2) years, respectively.

2. Article 21 of the basic Law, paragraph 3, after the wording "written objections", there shall be added the wording "at the Council", and the sentence continues.

### **Article 15**

Article 23 of the basic Law shall be reworded with the following text:

#### **Article 23**

#### **Council's Disciplinary Committee**

The Disciplinary Committee shall consist of three (3) members, one of them shall be prosecutor and member of the Council, who is also Chairperson of the Committee, while one member shall be a prosecutor from the Office of the Chief State Prosecutor and one prosecutor member from the Appellate Prosecution Office.

### **Article 16**

Article 25 of the basic Law, after paragraph 2 there shall be added a new paragraph 3 with the following text:

3. The procedure shall not be initiated and implemented in the Committee following the expiration of one (1) year deadline from the notification received at the Office of Disciplinary Prosecutor on alleged violation and two (2) years from the date of alleged violation.



### **Article 17**

Article 29 of the basic Law, after paragraph 4 there shall be added new paragraphs 5 and 6 with the following text:

5. The Council while deciding on an appeal, may dismiss the appeal, uphold or amend the decision of the Disciplinary Committee.

6. In case when the Office of Disciplinary Prosecutor 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 Prosecutor. Over such an omission, the Council shall require official liability from the Office of Disciplinary Prosecutor and if for such a thing there is not received a justified answer, shall address such a case, in a compulsory way, to the State Prosecutor for a possible investigation of misuse of the official duty by the Office of Disciplinary Prosecutor.

### **Article 18**

Article 40 of the basic Law, paragraph 1, after the wording "prosecutors", the wording "candidates for prosecutors" shall be deleted.

### **Article 19**

1. Articles 3, 4, 8, and 10 of this Law shall begin to be implemented from 1 January 2016.

2. The Regulations set forth by this Law shall be issued in a period of six (6) months after the entry into force of this Law.

### **Article 20**

#### **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-035**

**28 May 2015**

**Promulgated by Decree No.DL-011-2015, dated 15.06.2015, President of the Republic of Kosovo Atifete Jahjaga.**