



REPUBLIKA E KOSOVËS – PRESIDENTI  
REPUBLIC OF KOSOVO – THE PRESIDENT  
REPUBLIKA KOSOVA – PREDSIEDNIK

## DECREE FOR RATIFICATION OF THE INTERNATIONAL AGREEMENT

Pursuant to Article 18, paragraph 2 of the Constitution of the Republic of Kosovo and Article 4, paragraph 3 of the Law Nr.03/L-004 for the Ministry of Foreign Affairs and Diplomatic Service, I hereby issue the following;

### Decree

On the ratification of the Agreement on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of Kosovo and the Government of the Republic of Turkey, signed in Prishtina on May 31, 2011, and received by the Office of the President of the Republic of Kosovo on July 5 2011.

Pursuant to Article 18, paragraph 3 of the Constitution of the Republic of Kosovo, the ratified agreement shall be forwarded to the Parliament of the Republic of Kosovo as a notification.

The ratified agreement shall enter into force on the day of its publication in the Official Gazette.

Decree No: DMN-014-2011

Prishtina, 11 July 2011

---

Atifete Jahjaga  
President of the Republic of Kosovo

AGREEMENT  
BETWEEN  
THE GOVERNMENT OF THE REPUBLIC OF KOSOVO  
AND  
THE GOVERNMENT OF THE REPUBLIC OF TURKEY  
ON  
MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS  
PREAMBLE

The Government of the Republic of Kosovo and the Government of the Republic of Turkey, hereinafter referred to as the "Parties";

In their aspiration for further developing and strengthening of the bilateral relations on mutual legal assistance in criminal matters between the two countries;

Taking into consideration the existing friendship and cooperation between the Parties and their willingness to participate actively in the process of co-operation in Europe;

Have expressly agreed as follows:

CHAPTER I  
GENERAL PROVISIONS

Article 1  
Scope of mutual legal assistance

The Parties undertake promptly to afford each other, in accordance with the provisions of the Agreement, the widest measure of mutual legal assistance in criminal proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting Party.

Article 2  
Channel and language of communication

- (1) Requests for mutual legal assistance shall be submitted in writing through the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels.
- (2) The request for mutual legal assistance and the supporting documents shall be sent in original or certified copies thereof shall be provided.
- (3) Requests for mutual legal assistance shall be submitted in Turkish to the Ministry of Justice of the Republic of Turkey; In Albanian or Serbian to the Ministry of Justice of the Republic of Kosovo.

Article 3  
Content of requests

- (1) Requests for mutual legal assistance shall indicate as follows:
  - a) the authority making the request,
  - b) the object of and the reason for the request,
  - c) where possible, the identity and the nationality of the defendant and/or the person concerned,
  - d) where necessary, the name and address of the person to be served,
- (2) Letters rogatory referred to in Article 6, 7 and 8 shall in addition state the offence for which criminal proceedings are being conducted and a description of the facts.
- (3) To the extent necessary, a description of the particular procedure to be followed by the authorities of the requested Party and a description of the testimony or statement required by the requesting Party shall also be specified in the request for mutual legal assistance when indicated.
- (4) The request and supporting documents shall be signed and stamped by the competent authorities of the requesting Party.

Article 4  
Refusal of mutual legal assistance

- (1) Requests for mutual legal assistance may be refused by the requested Party in any of the following cases:
  - a) If the investigation or criminal proceedings are related to:
    - i. an offence which the requested Party considers to be a political offence or an offence connected with a political offence; or
    - ii. a purely military offence which does not constitute an offence under ordinary criminal law.
  - b) If the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, public order or its other essential interests.
- (2) For the purpose of this Agreement, genocide, crimes against humanity, war crimes and terrorism and offences for which investigation and proceedings are obligatory for the Contracting Parties under multilateral and international agreements shall not be considered political offences or offences connected with a political offence.

Article 5  
Action on requests

- (1) If the requested Party determines that the request for assistance is not consistent with the provisions of this Agreement or that it cannot be executed under its laws, that Party shall immediately inform the requesting Party and specify the reasons thereof.
- (2) Upon execution of a request for assistance, the requested Party shall return the original request to the requesting Party together with all the documents, information or evidence obtained.
- (3) If the authority to which the request for assistance has been addressed is not competent for execution, the requested Party shall forward the request to the competent authority.

CHAPTER II  
LETTERS ROGATORY

Article 6  
Letters rogatory

Each Party may address to the competent authorities of the other Party letters rogatory for the purpose of procuring evidence or transmitting articles to be produced in evidence, records or documents.

Article 7  
Execution of Letters Rogatory

- (1) The requested Party shall execute letters rogatory addressed to it by the requesting Party in accordance with the procedure and in the manner provided for by its own laws.
- (2) The requested Party may apply, upon request, a particular procedure required by the requesting Party in the execution of the letters rogatory, to the extent that such procedure is compatible with its own law.
- (3) If the requesting Party desires witnesses or experts to give evidence on oath, it shall expressly specify so in its request. The requested Party shall comply with such a request if it deems it acceptable under its own law.
- (4) The requested Party shall transmit certified copies of documents and records of evidence requested, unless the requesting Party expressly requires the transmission of originals.
- (5) Appropriate officials of the requesting Party and other interested persons or their representatives may be present, as observes, at the execution of the letters rogatory, if the requested Party consents thereto.
- (6) To that end and on the express request of the requesting Party, the requested Party shall duly inform the latter of the date and place of execution of the letters rogatory.

Article 8  
Search and seizure of property

The requested Party shall execute letters rogatory for search or seizure of property when:

- a) the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the requested Party;
- b) that execution of the letters rogatory is consistent with its own law.

Article 9  
Hand over and return of documents and records

- (1) The requested Party may delay the handing over of any property, records or documents requested, if it requires the said property, records or documents in connection with pending criminal proceedings.
- (2) Before refusing or postponing assistance, the requested Party may, where appropriate and after having consulted with the requesting Party, grant the request partially or subject to such conditions as it deems necessary.
- (3) Any property, as well as original records or documents, handed over in execution of letters rogatory shall be returned by the requesting Party to the requested Party as soon as possible unless the latter Party waives the return thereof.

CHAPTER III

SERVICE OF SUMMONS AND JUDICIAL DOCUMENTS - APPEARANCE OF  
WITNESSES, EXPERTS AND PROSECUTED PERSONS

Article 10

Service of Summons and Judicial Documents

- (1) The requested party shall effect service of writs and records of judicial verdicts which are transmitted to it for this purpose by the requesting Party.
- (2) Service may be effected by simple transmission of the writ or record to the person to be served. If the requesting Party expressly so requests, service shall be effected by the requested Party in the manner provided for the service of analogous documents under its own law or in a special manner consistent with such law
- (3) Proof of service shall be given by means of a receipt dated and signed by the person served or by means of a declaration made by the requested Party that service has been effected and stating the form and date of such service. One or other of these documents shall be sent immediately to the requesting Party. The requested Party shall, if the requesting Party so requests, state whether service has been effected in accordance with the law of the requested Party. If service cannot be effected, the reasons shall be communicated immediately by the requested Party to the requesting Party.
- (4) Each Party shall retain the right to serve judicial documents on its own nationals in the territory of the Requested Party through its diplomatic or consular officials.

Article 11

Appearance of witnesses, experts and prosecuted persons before  
the judicial authorities of the requesting state

- (1) If the requesting Party considers the personal appearance of a witness or expert before its judicial authorities especially necessary, it shall so mention in its request for service of the summons and the requested Party shall invite the witness or expert to appear. The requested Party shall inform the requesting Party of the reply of the witness or expert.
- (2) A witness or expert who has failed to answer a summons to appear, service of which has been requested by either of the Parties, shall not be subjected to any punishment or measure of restraint in the territory of the requested Party.
- (3) In the case provided for under paragraph (1) of this article the request or the summons shall indicate the approximate allowances payable and the travelling and subsistence expenses refundable. If a specific request is made, the requested Party may grant the witness or expert an advance. The amount of the advance shall be endorsed on the summons and shall be refunded by the requesting Party.

Article 12

Temporary transfer of detained persons to appear as witnesses before  
the judicial authorities of the requesting state

- (1) A person in custody whose personal appearance for evidentiary purposes other than for standing trial is applied for by the requesting Party shall be temporarily transferred to its territory, provided that he or she shall be sent back within the period stipulated by the requested Party.
- (2) Transfer may be refused if:
  - a) the person in custody does not consent;
  - b) his or her presence is necessary at criminal proceedings pending in the territory of the requested Party;
  - c) transfer is liable to prolong his or her detention, or
  - d) there are other overriding grounds for not transferring him or her to the territory of the requesting Party.
- (3) The transferred person shall remain in custody in the territory of the requesting Party and, where applicable, in the territory of the Party through which transit is requested, unless the Party from whom transfer is requested applies for his release.

#### Article 13

#### Guarantees for witnesses, experts and defendants when summoned before judicial authorities of a requesting Party

- (1) A witness or expert, whatever his nationality, appearing on a summons before the judicial authorities of the requesting Party 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 acts or convictions anterior to his departure from the territory of the requested Party.
- (2) A person, whatever his nationality, summoned before the judicial authorities of the requesting Party 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 acts or convictions anterior to his departure from the territory of the requested Party 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 fifteen consecutive days from the date when his presence is no longer required by the judicial authorities an opportunity of leaving, has nevertheless remained in the territory, or having left it, has returned.

#### CHAPTER IV

#### MISCELLANEOUS PROVISIONS

#### Article 14

#### Requests for judicial records

- (1) A requested Party shall communicate extracts from and information relating to judicial records, requested from it by the judicial authorities of a Contracting Party and needed in a criminal matter, to the same extent that these may be made available to its own judicial authorities in like case.

- (2) In any case other than that provided for in paragraph 1 of this article the request shall be complied with in accordance with the conditions provided for by the law, regulations or practice of the requested Party.

#### Article 15

##### Exchange of judicial information

1. Each Party shall inform the other Party of all criminal convictions and subsequent measures pronounced by its judicial authorities in respect of the nationals of the latter party and entered in the judicial records.
2. Ministries of Justice of both Parties shall communicate such information to one another as soon as possible.

#### Article 16

##### Data protection

- (1) Personal data transferred from one Party to another as a result of the execution of a request made under this Agreement, may be used by the Party to which such data have been transferred, only:
  - a) for the purpose of proceedings to which this Agreement apply;
  - b) for other judicial and administrative proceedings directly related to the proceedings mentioned under (a) ;
  - c) for preventing an immediate and serious threat to public security.
- (2) Such data may however be used for any other purpose if prior consent to that effect has been given by either the Party who transferred the data, or by the person subject of the data.
- (3) Any Party may refuse to transfer personal data obtained as a result of the execution of a request made under this Agreement where such data are protected under its national legislation.
- (4) Any Party that transfers personal data obtained as a result of the execution of a request made under this Agreement may require the Party to which the data have been transferred to give information on the use made with such data.

#### Article 17

##### Expenses generated by the execution of requests for mutual legal assistance

- (1) Parties shall not claim from each other the refund of any costs resulting from the application of this Agreement, except for:
  - a) costs incurred by the appearance of witnesses and experts in the territory of the requesting Party, as described in article 13 of this Agreement;
  - b) costs incurred by the transfer of a person in custody carried out under article 12 of this Agreement.
  - c) costs of a substantial or extraordinary nature.



- (2) Parties shall consult with each other with a view to making arrangements for the payment of costs claimable under paragraph 1.b of this article.

CHAPTER V  
FINAL PROVISIONS

Article 18

Scope of Effects

The provisions of this Agreement shall apply to all requests for mutual legal assistance related to acts or offences committed after the date of entry into force of this Agreement.

Article 19

Entry into force

This Agreement shall be subject to ratification. It shall enter into force thirty days after the exchange of the instruments of ratification and shall remain in force for an indefinite period.

Article 20

Termination

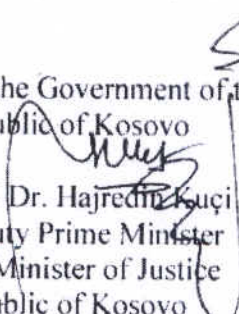
Either Party may terminate this Agreement by giving a six months prior written notice to the other Party.

IN WITNESS WHEREOF, the respective Ministers of the State Parties have signed this Agreement.

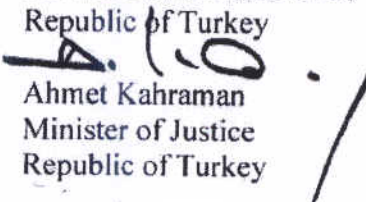
Done in Prishtinë on 31 May 2011 in duplicate and in Albanian, Turkish and English.

The Albanian, Turkish and English versions of the present Agreement are equally authentic. In case of conflict, the English version shall prevail.

For the Government of the  
Republic of Kosovo

  
Prof. Dr. Hajredin Kuçi  
Deputy Prime Minister  
and Minister of Justice  
Republic of Kosovo

For the Government of the  
Republic of Turkey

  
Ahmet Kahraman  
Minister of Justice  
Republic of Turkey