

LAW NO. 08/L-109

ON CRIME VICTIM COMPENSATION

The Assembly of the Republic of Kosovo;

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

Adopts:

LAW ON CRIME VICTIM COMPENSATION

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose**

1. The purpose of this Law is to regulate the functioning of the Crime Victim Compensation Program and procedures related to this program.

2. This law shall be in full compliance with the main Council Directive 2004/80/EC of 29 April 2004 concerning the crime victim compensation.

**Article 2
Scope**

This Law shall regulate the right to financial compensation of victims of violent criminal offenses and their dependents, decision-making authorities and procedures for exercising the right to compensation in both domestic and transboundary situations.

**Article 3
Definitions**

1. Terms used in this Law shall have the following meaning:

1.1. **Crime Victim** - a victim or injured party as defined by the Criminal Procedure Code;

1.2. **Random victim** - persons who were accidentally found at the crime scene, persons who got injured while giving aid to the victim or the police in order to stop the commission of a criminal offense or to apprehend the perpetrator;

1.3. **Foreign victim of trafficking** - foreign citizen identified by Kosovo authorities as a victim or alleged victim of trafficking;

1.4. **Dependents** - persons supported by the late victim and persons who have been entitled by law to request support from the late victim;

1.5. **Family member** – as defined in the Criminal Code of the Republic of Kosovo;

1.6. **Child** – as defined in the Criminal Code of the Republic of Kosovo;

1.7. **Damage** - damage for which compensation is provided under Article 10 of this Law;

1.8. **Disfigurement** - when the victim's appearance is spoiled or deformed as a result of the offense;

1.9. **Applicant** - the person who files a compensation claim, claiming to be a victim of crime. This term shall include other persons who may file a claim on behalf of the victim;

1.10. **Application** - a compensation claim from the Crime Victims Compensation Program;

1.11. **Beneficiary** - a person who benefits from the right to compensation under this Law based on a decision of the Commission;

1.12. **Commission** - Crime Victim Compensation Commission;

1.13. **Vulnerable victim** - as defined in the Criminal Code of the Republic of Kosovo;

1.14. **Territory of the Republic of Kosovo** - as defined in the Criminal Code of the Republic of Kosovo;

1.15. **Medical treatment** - medications and medical services, including psychotherapy.

2. For the purposes of this Law, all nouns of a masculine gender shall also imply a feminine gender and vice versa.

Article 4 General principles

1. Authorities envisaged under the law shall ensure that the crime victim (hereinafter: the victim) is treated professionally, observing the right to safety, dignity, private and family life and recognizing the negative impact of crime on victim.

2. The rights set out in this Law including their residence status, shall apply to victims in a non-discriminatory manner.

3. Pursuant to Article 19 of this Law, victim and their dependents, from this Law, shall not receive double compensation.

Article 5 Subsidiary provisions

The provisions of the Law on General Administrative Procedure shall apply in procedural matters not covered by this Law.

CHAPTER II RIGHT TO COMPENSATION AND TYPES OF COMPENSATION

Article 6 Compensable violent offenses

1. Compensable violent offenses (hereinafter: offenses) are all acts that result in:

1.1. death of the victim;

1.2. serious bodily injury;

1.3. serious impairment of physical health, or

1.4. mental health impairment.

2. Criminal offenses against public traffic safety are not covered under this Law even if they resulted in consequences listed in paragraph 1. of this Article.

Article 7

Formal and material requirements

1. The formal requirements for acquiring the right to compensation are that:

1.1. the offense has been committed within the territory of the Republic of Kosovo. In cases where the offense or part of it was committed in the territory of the Republic of Kosovo and in the territory of a country or other countries, compensation shall be granted by the country in which the victim or dependent has permanent residency;

1.2. for nationals of the Republic of Kosovo, the offense may have been committed outside the territory of the Republic of Kosovo, but the victim may not have had the opportunity to receive compensation in the country where the criminal offense was committed. Compensation shall be done in line with the provisions of this Law;

1.3. the offense has been detected and reported to the competent authority and has been treated as a criminal offense.

2. In the event of death of a crime victim as a result of a criminal offense, the family members of the victim may enjoy rights in line with the provisions of this Law.

3. Random victims can be entitled to compensation if they meet the requirements set forth in the provisions of this Law.

Article 8

Immediate compensation

1. The request for immediate access to compensation can be submitted in cases where we are dealing with:

1.1. the child victims;

1.2. victims of human trafficking;

1.3. victims of rape;

1.4. victims of criminal offenses that fall within the definition of domestic violence;

1.5. family members of the deceased victim.

2. Types of compensation that can be paid under this Article include the following categories:

2.1. funeral expenses from Article 16 paragraph 1. of this Law;

2.2. expenses paid by the victim or a family member on behalf of the victim which may include but are not limited to the following:

2.2.1. expenses from Articles 11, 12 and 17 of this Law;

2.2.2. other reasonable expenses which the Commission considers that can be included as immediate compensation up to a maximum of five hundred (500) Euros.

2.3. compensation under this Article cannot exceed the amount of three thousand (3000) euro for the total of all categories listed above.

3. Conditions that can determine whether immediate compensation may be granted for categories from paragraph 1. of this Article, shall include but shall not be limited to the following:

3.1. the criminal offense was committed against a vulnerable victim;

3.2. the victim is in dire financial straits; beneficiary of social assistance or in a similar situation.

4. A foreign victim of trafficking may submit a request to the Commission, while still in the territory of the Republic of Kosovo, same like domestic victims. In this case, the victim must cooperate reasonably with the justice authorities to investigate and prosecute the perpetrator.

5. Compensation under this Article shall not deny victims the right to file a regular compensation claim for other categories of compensation provided by this Law or for the remaining amount of compensation from the same category, up to the maximum provided by the law.

6. The Commission reserves the right to postpone the review adjudication of the compensation application filed under this Article, pending the filing of a criminal report or indictment, in cases where such suspension of adjudication of application is necessary to determine that the injuries caused have resulted from the violent criminal offense. The suspension shall not result in unreasonable delays or financial hardship for the applicant.

7. The Commission may reject the compensation application under this Article if it considers that the information provided does not sufficiently support the claim for immediate compensation.

Article 9 **Regular compensation application**

1. The regular application for compensation shall be submitted after the completion of the regular court procedure, respectively after the finality of the judgment.

2. In order to request regular compensation, the Applicant is obliged to initially request restitution from the defendant in criminal proceedings in accordance with the Criminal Procedure Code, except in cases where the victim demonstrates that it has been impossible to file such request.

3. In cases where the defendant does not retribute the victim, the victim is entitled to file a compensation application from the crime victim compensation program.

4. In cases where the defendant only partially restitutes the victim, then the victim is entitled to file an application for additional compensation from the crime victim compensation program.

5. In addition to the rule from paragraphs 1. to 3. of this Article, the Applicant has the right to request regular compensation even in cases where the restitution cannot be realized by the perpetrator due to the following circumstances:

5.1. if it is established that the person was a victim but:

5.1.1. the perpetrator is not criminally liable;

5.1.2. the perpetrator is unknown;

5.1.3. the perpetrator is dead;

5.1.4. has fled and is inaccessible to the justice authorities;

5.1.5. the perpetrator is incapable of paying restitution, beneficiary of social assistance or in a similar situation;

5.1.6. two (2) years have passed since the reporting of the criminal offense and no indictment was filed;

5.1.7. relative or absolute statute of limitations has been reached;

5.2. if the enforcement of restitution determined in the court proceedings has become impossible or when it cannot be applied for other reasons foreseen by the applicable legislation.

6. An application under this Article may be filed even if the applicant has previously requested immediate compensation under Article 8 of this Law. This applies both in cases when the request for immediate compensation has been rejected, as well as when the compensation has been granted only for some of the categories, respectively for expenses provided for by this Law.

Article 10 **Types of Compensation**

1. Types of compensations under this Law are as follows:

- 1.1. compensation for physical injury or damage to health;
- 1.2. compensation for mental health impairment;
- 1.3. compensation for mental suffering;
- 1.4. compensation for mental suffering due to loss of a family member;
- 1.5. compensation for loss of right to subsistence;
- 1.6. compensation for funeral expenses;
- 1.7. compensation for damage or destruction of medical equipment.

2. Victims have the right to apply for one or more types of compensation provided for by law.

3. The Government of the Republic of Kosovo shall issue an administrative instruction on the manner of compensation, including calculation of compensation for multiple damages.

Article 11 **Compensation for physical injury or damage to health**

1. Compensation under this Article will be granted for physical suffering, mental suffering and for reduction of vital capacity caused as a result of physical injury, damage to health or diseases that have resulted from the commission of a criminal offense.

2. Compensation under this Article will not be recognized in cases where the crime victim has been temporarily disabled or where he/she has been disabled to a lesser degree.

3. Compensation shall be determined taking into account the circumstances of the case, the degree of suffering caused by the injury or damage to health, duration of suffering and in accordance with the principle of fair monetary compensation. The fixed amounts for compensation shall be determined in line with the following scales:

- 3.1. moderately serious damages, injuries or illnesses lasting more than six (6) weeks, which result in disability for that period rendering earning of income impossible. Compensation will be provided in a single amount, calculating no more than one hundred fifty (150) Euros per month from the occurrence of injury or damage under this Article, but in no case exceeding the maximum amount of two thousand (2,000) Euros;

3.2. severe damages, injuries or illnesses with obvious or functional, long-term or permanent consequences or which have been objectively life-threatening. Calculation of compensation for this category shall be performed in accordance with sub-paragraph 3.1 of this Article, and shall not exceed the maximum amount of four thousand (4,000) Euros.

4. In addition to the compensation from paragraph 3. of this Article, the victims or their dependents who have borne the costs of hospitalization, medication and other ancillary services, necessary for the treatment of victims, shall be entitled to compensation of up to a maximum amount of five thousand (5,000) Euros, provided that they can document those expenses.

5. Exceptionally, if the Commission deems it reasonable, depending on the type of injury, damage or illness and other medications or ancillary services received, it may increase the maximum compensation to ten thousand (10,000) Euros by unanimous vote.

Article 12

Compensation for mental health impairment

1. Compensation for mental health impairment can only be paid when it is caused by a violent crime.

2. Impairment of mental health does not include a state of disability, mental retardation, temporary disorder or similar conditions. The consequence should be to the level that it affects the victim's ordinary activities or his/her psychological state for an extended period of time and the victim needs ongoing treatment.

3. Compensation up to three thousand (3,000) Euros can be granted for:

3.1. documented expenses for services of specialists for outpatient treatment for remediation of the created situation;

3.2. projected expenditures for services provided for remediation of the created situation, if it is ascertained by specialists of the field that the damage is of such nature that it requires continuous treatment;

3.3. expenses for hospitalization, medications and other ancillary services.

4. If treatment services for mental health impairment from paragraph 3. of this Article cannot be provided in public mental health institutions, the Commission may request hiring of private institutions that provide such services.

5. The Commission may review a second compensation application under paragraph 3. of this Article, submitted by the Applicant, after receiving the services provided by this Article, if due to mental health impairment the victim needs to undergo continuous treatment beyond those originally received or projected by specialists or the Commission. The amount of compensation based on the additional request may not exceed a value that is double the amount provided by this Article.

6. Compensation from this Article may also include compensation from Article 11, paragraph 3. of this Law, in cases where the consequences qualify the victim for compensation.

Article 13

Compensation for mental suffering

1. Compensation for mental suffering as a result of the criminal offense may be granted to the following:

1.1. child victims;

1.2. victims of domestic violence who have been subjected to psychological, sexual, physical and economic violence;

1.3. victims of human trafficking;

1.4. victims of rape, sexual assault and degradation of sexual integrity or victims that were forced into pornography;

1.5. victims who have been subjected to disfigurement, constant torture, psychological, sexual and physical abuse or deprivation of liberty and as a result have suffered trauma to the extent that it has severely affected the victim's condition, behavior and personality.

2. Mental suffering means emotional distress, psychological trauma, feelings of hopelessness and powerlessness, shame, loss of life satisfaction and other disturbances of a psychological nature that result from the criminal offense and may affect the emotional, cognitive, and behavioral aspects of the person. Mental suffering will be determined taking into account the circumstances of the case, the type of criminal offense, the level and duration of the distress as well as other relevant factors.

3. Compensation under this Article shall be awarded in a fixed amount of two thousand (2,000) Euros.

Article 14

Compensation for mental suffering due to loss of a family member

1. According to this Article, the family members of the deceased victim have the right to compensation.

2. Compensation under this Article is granted pursuant to Article 12, paragraph 3. of this law and may not exceed the amount of three thousand (3,000) Euros in total for all family members of the victim.

Article 15

Compensation for loss of the right to subsistence

1. Dependents shall have the right to file for compensation application for the loss of the right to subsistence when they can document that the deceased was a contributor to their subsistence.

2. Compensation under this Article shall be granted based on the categorization of injuries and damages according to Article 11, paragraph 3. of this Law, and shall in no case exceed a maximum amount of three thousand (3,000) Euros for all dependents.

Article 16

Compensation of funeral expenses

1. Family members of the deceased victim shall be entitled to compensation for funeral expenses. Compensation under this Article shall be awarded in a fixed amount of one thousand (1,000) Euros.

2. Compensation for expenses from paragraph 1. of this Article, may be claimed as part of the application for immediate or regular compensation. The applicant must possess the authorization of other family members to withdraw such compensation.

3. In addition to the compensation provided for in paragraph 1. of this Article, the Applicant may also request compensation for the costs of transportation of the victim's corps from another county. Expenses related to this transportation must be documented.

Article 17
Compensation for damage or destruction of medical equipment

1. The Applicant will be reimbursed for the medical equipment necessary for the health of the victim, which have been damaged as a result of the violent act that resulted in the injury of the victim.
2. Compensation under this Article shall not exceed the maximum amount of three thousand (3,000) Euros.

Article 18
Circumstances affecting compensation

1. Compensation may be reduced or rejected:
 - 1.1. depending on the victim's contribution to the damage caused or the deterioration of the damage caused;
 - 1.2. depending on the victim's behavior before, during or after the offense;
 - 1.3. depending on the involvement of the victim in organized crime or his/her affiliation in an organization involved in violent crime;
 - 1.4. if the granting of full or partial compensation is contrary to the notion of justice, morality or public order.

Article 19
Consideration of other types of compensation

1. The amount of compensation for a certain type of damage under this Law will be reduced for the part of services provided free of charge by public health institutions, the restitution received by the offender, the compensation received by public or private health insurance, compensation from other public funds or compensation received from victim compensation programs inside or outside the country if they are covered for the same damage respectively on the same basis.
2. When issuing the decision for compensation, the Commission will also take into account any compensation ordered by the court that decides on the criminal case for the criminal offense for which compensation is requested, unless that compensation has not been paid.

Article 20
Transfer of the right to compensation

1. The right to file a compensation application shall not be transferred to dependents in an event of death of the victim after filing a compensation application.
2. Except for cases from paragraph 1. of this Article, when the victim of crime has requested compensation for injuries caused as a result of violent acts, but in the meantime the victim dies from other circumstances that are not a result of those injuries, family member of the deceased shall be entitled to compensation when the following conditions are met cumulatively:
 - 2.1. if before the death of the victim the Commission has made a final decision to compensate the victim for the injury, but the transfer of the amount of compensation to the victim's account has not yet been made;
 - 2.2. if the family member was financially dependent on the deceased and has no other sources of subsistence.

CHAPTER III COMPETENT AUTHORITIES

Article 21 Crime Victim Compensation Commission

1. The Crime Victim Compensation Commission shall be appointed by the Government of the Republic of Kosovo with the following composition:

1.1. one (1) judge of the Supreme Court, as chairperson of the Commission, proposed by the Kosovo Judicial Council;

1.2. one (1) representative from civil society with expertise in the field of victim protection, member, nominated by the Minister of Justice, supported by at least five (5) civil society organizations in the field of human rights and victims' rights;

1.3. one (1) member from the ranks of licensed physicians in the field of psychiatry proposed by the Kosovo Chamber of Physicians;

1.4. head of the administrative unit of the Commission, is a member without the right to vote. Exceptionally, in absence of a quorum the Head of the unit shall have the right to vote.

2. The term of office of Commission members shall be three (3) years. The term of office of the Commission Chairperson shall be four (4) years. Members of the Commission, including the chairperson may be re-elected for an additional term.

3. The composition of the Commission shall take into account the gender and ethnic quota.

Article 22 Dismissal and suspension of Commission members

1. The function of Commission members shall be terminated as a result of:

1.1. death;

1.2. loss of legal capacity for more than three (3) months due to proven medical reasons;

1.3. consistent failure to participate in activities of the Commission for more than three (3) months;

1.4. termination of the status on which the appointment as a member is based;

1.5. expiration of the term of office;

1.6. resignation by informing the Commission with prior notice of thirty (30) days.

2. Commission members shall be dismissed from the function before the expiration of the term of office for which they have been elected, if their actions make them unsuitable to exercise the function of a Commission member when they:

2.1. perform duties in the Commission in an irresponsible manner, and

2.2. are convicted of a criminal offense.

3. If a position in the Commission is vacated before the expiration of the term of office of a member, the vacant position shall be filled in the same manner as for the member whose term of office has expired.

Article 23

Performing tasks by the Commission

1. The commission shall decide on compensation applications during meetings convened by the chairman.
2. If necessary, the Commission may interview or request a written report from relevant officials who have been involved in criminal proceedings in the case and may have knowledge of the impact of the criminal offense on the victim.
3. The commission shall at its discretion decide about the following:
 - 3.1. exceeding the maximum amounts provided for the specific categories of compensation, in cases where the documented costs are reasonable;
 - 3.2. determining the amount of compensation based on Article 8, sub-paragraph 2.2.2 and Article 11, paragraph 5. of this Law;
 - 3.3. extension of the deadline for submission of the application or required additional documents in cases where it is clearly reasonable that such a delay has been unavoidable.
4. Commission members shall be entitled to remuneration for their work in line with the decision of the government.
5. The Commission shall adopt its rules of procedure regulating its manner of operation, the role and tasks of the Support Unit and the communication between them.

Article 24

Disqualification and objection

The provisions of the Law on Contested Procedure which apply to the disqualification of judges shall analogously apply to the members of the Compensation Commission.

Article 25

Support by the Commission's Administrative Unit

1. The Ministry of Justice shall provide administrative-technical support to the Commission (hereinafter: The Unit).
2. The Unit shall be responsible to receive and conduct preliminary review of applications as follows:
 - 2.1. if the request was submitted within the deadline provided by law;
 - 2.2. if the application contains deficiencies, is incomplete or incomprehensible.
3. If the request is submitted after the deadline, the Unit shall notify the Chairperson of the Commission and the applicant of the application rejection.
4. In cases from sub-paragraph 2.2. of this Article, the Unit shall communicate with applicants to request additional data and necessary corrections. The deadline for correcting a deficiency of an incomplete and incomprehensible application shall not be less than thirty (30) days. If the request is not completed even after the additional deadline, the Commission shall render a decision on the case.
5. After the preliminary review of the application the Unit can instruct the applicant, based on the submitted documentation, that he/she can complete the claim by applying for the relevant

category of compensation subject to review by the Commission.

6. The unit shall also be responsible for communicating with the competent authorities to obtain the necessary information.

7. The special duties and responsibilities of the Unit shall be defined by the Regulation on the internal organization and systematization of jobs of the Ministry of Justice.

Article 26 **Obligation to provide information**

1. Every institution that comes into contact with the victim, shall have the obligation to inform him/her about the right to compensation under this Law.

2. The Ministry of Justice shall publish the necessary information on how to apply for compensation, application forms and other necessary instructions on its website for all domestic and transboundary situations. The Ministry of Justice shall publish information about the compensation program. All information shall be published in line with the Law on the use of languages and in English.

3. If necessary the Ministry of Justice, will provide general instructions to the applicants. The instructions will include information on how to complete the application and what supporting documentation may be needed.

4. Whenever necessary the Ministry of Justice shall ensure the exchange of information with the competent authorities of other countries, competent for performing duties in compensation application procedures, in line with the regulations of the respective countries. The Ministry of Justice shall provide assistance and seek adequate solutions regarding implementation of provisions in transboundary situations.

5. At the request of the Commission, the police shall provide data on the criminal offense from which the victim claims to have suffered.

6. Healthcare and social institutions, police, prosecution, courts and institutions from local and central level should make information on Victim Compensation Program available in public places.

CHAPTER IV **COMPENSATION APPLICATION PROCEDURES**

Article 27 **Filing of compensation application**

1. The compensation application shall be filed to the Ministry of Justice, addressed to the relevant Support Unit of the Crime Victim Compensation Commission.

2. The completed application together with the relevant documentation shall be submitted to the address of the Compensation Commission in the Ministry of Justice in one of the following ways:

2.1. in person;

2.2. by mail;

2.3. by e-mail.

3. The crime victim may seek the assistance of a victim advocate or non-governmental

organizations that provide free legal aid to victims, in completing the compensation application.

4. In cases where a private attorney is hired to complete and submit compensation application, the Commission will not compensate the fee requested by the private attorney.

5. The Commission may also consider compensation applications referred by the Court, in line with the provisions of the Criminal Procedure Code.

6. Submissions in compensation proceedings shall be exempt from any fees.

7. The Ministry of Justice will prepare standard compensation application forms based on Articles 8, 9 and 34 of this Law.

8. The crime victim shall give consent for processing of relevant personal data and sensitive personal data for the purpose of assessing the compensation application.

9. If the crime victim is prevented from giving consent due to physical or psychological injury, it shall be considered that the legal representative of the victim has the right to give such consent.

10. The Applicant shall declare that he has no right to seek compensation from other sources.

11. The veracity of the statements in the application shall be subject to relevant provisions of the Criminal Code referring to false declaration.

12. The request must be submitted in Albanian or Serbian for local victims, while the English version is also admissible for domestic transboundary situations.

Article 28

Documents to be attached to compensation application

1. The following documents shall be attached to application submitted based on Article 8 of this Law:

1.1. any document issued by the police which documents that the criminal offense was detected, reported and addressed that includes the qualification of the victim of the offense;

1.2. evidence on the financial situation of the Applicant.

2. The final decision must be attached to application submitted based on Article 9, paragraphs 1. to 4. of this Law.

3. The decision or any other official document must be attached to application submitted based on Article 9 paragraph 5. of this Law, to confirm these situations.

4. In addition to documents specified in paragraphs 1., 2. and 3. of this Article, the following documents shall be attached to the application:

4.1. identification document. In case of a victim of trafficking that does not possess identification documents, the identity of the victim shall be ascertained on the basis of the police report, respectively the judgment of the competent court that handled the criminal case;

4.2. authorization for the applicant where such person seeks compensation on behalf of the victim or victim's dependents;

4.3. relevant medical reports and other reliable documents or evidence proving that the crime victim has suffered a bodily injury, damage to health or suffering, except in cases

referred to in paragraph 2. of this Article;

4.4. evidence of expenses when such documentation is required based on the specific category;

4.5. certificate of family union in cases where the compensation application is submitted by dependents, respectively family members of the victim;

4.6. document proving that the victim contributed to family subsistence, in cases where compensation is claimed for the loss of the right to subsistence;

4.7. other documents relevant to support compensation application.

5. Documents drafted in any foreign language, other than English, shall be accompanied by Albanian or Serbian translation thereof.

Article 29 **Deadline for filing an application**

1. The request for immediate compensation from Article 8 of this Law, can be submitted within a period of three (3) years from the reporting of the criminal offense to the competent authorities.

2. The request for regular compensation from Article 9 of this Law, can be submitted within a period of three (3) years from:

2.1. receipt of the final judgment;

2.2. receipt of the notification by the Applicant about the existence of the circumstances from Article 9 paragraph 5. of this Law.

3. If the victim is under the age of eighteen (18), the deadlines from paragraphs 1. and 2. of this Article shall start to run after the victim reaches the age of eighteen (18).

4. Exceptionally, if the victim due to bodily injury, or other reasonable causes that prevent him/her from submitting the application, is not able to submit the application within the deadline specified in this Article, he/she shall submit the request no later than three (3) months from the date on which the reasons for which he/she was unable to file the application ceased to exist.

Article 30 **Making decision regarding the application**

1. Decisions of the Commission shall be taken by a majority votes.

2. The Commission shall:

2.1. uphold an application in whole or in part and determine the amount of compensation;

2.2. reject the application as unfounded.

3. The commission can hold meetings when 2/3 of members are present.

4. Commission shall decide on the request for immediate compensation from Article 8 of this Law, within thirty (30) days from the day of receipt of the complete documentation.

5. The Commission shall decide on the request for regular compensation from Article 9 of this Law, within ninety (90) days from the day of receipt of the completed application.

6. A copy of the decision shall be sent to the Applicant and the competent court.

7. If the crime victim is a child, or a person without legal capacity, a copy of the decision shall be served on the legal guardian.

8. The party dissatisfied with the decision of the Commission may initiate an administrative dispute pursuant to the relevant applicable legislation.

9. The decision for recognition of the right to compensation shall also contain the clause for transfer of the application, based on Article 40 of this Law, against the perpetrator, from the beneficiary to the budget of the Republic of Kosovo up to the amount of the awarded compensation.

Article 31 **Transfer of funds**

1. During the enforcement the funds shall be transferred exclusively to the beneficiary.

2. Funds for child victims shall be transferred to the legal representative.

3. The execution of funds shall be done in accordance with applicable legislation.

Article 32 **Transmission and access to data**

1. Administrators of personal information databases, state authorities, local community authorities and bodies exercising public powers, which possess data on relevant circumstances and facts required for decision-making, shall transfer the above-mentioned data to the Commission whenever requested in writing.

2. Upon a written request from the Commission, data on circumstances and facts relevant to the decision-making, may also be submitted to the Commission voluntarily by individuals in possession of such data.

3. Access to contents of the indictment, supporting documents, State Prosecution reports, and court decisions held by the Commission for decision-making purposes may be allowed only to members of the Commission, officials of the Commission Support Unit of the commission dealing with the application, the victim or his/her legal representative, authorized representative and competent state authorities.

CHAPTER V **PROCEDURES IN TRANSBOUNDARY SITUATIONS**

Article 33 **Transboundary situations**

1. Transboundary situations shall include domestic transboundary situations, foreign transboundary situations, including situations from Article 7 sub-paragraph 1.2. of this Law.

2. Domestic transboundary situation is the situation where the criminal offense was committed in the territory of the Republic of Kosovo. In this case, the Commission established under this Law has the role of decision-making authority, while the compensation application filed by a foreign victim shall be submitted through the assisting authority of the foreign country, in which the foreign victim is national of.

3. A foreign transboundary situation is a situation where the criminal offense is committed in another country and where the right to compensation is determined by a decision of the decision-making authority of that country. The Applicant in this case is a national of the Republic of Kosovo, while the Commission can serve as an assisting authority and shall be responsible for transmitting the Applicant's requests to the foreign decision-making authority.

Article 34

Domestic transboundary situations

1. Upon receipt of the application from the competent authority of a foreign country of which the applicant is a national, the Commission shall, within thirty (30) days, communicate the following information to the relevant authority of the foreign country:

- 1.1. confirmation of the receipt of the application;
- 1.2. details of the contact person, or department responsible for the case, and;
- 1.3. if possible, an approximate deadline when the decision on the application will be taken.

2. The Ministry of Justice will draft a special application form for domestic transboundary situations.

3. If the received application is not sent in the standard form, as determined by the Ministry of Justice or the request is incomplete, it shall be returned for completion to the sending authority.

4. If the application and the attached documents are not in Albanian, Serbian or English, the Commission shall return them to the applicant or the sending authority, accompanied by an instruction on the use of Albanian, Serbian or English languages.

5. All requests and documents transmitted during communication between authorities in transboundary situations should be excluded from any kind of authenticity verification or equivalent formality.

6. If in the domestic transboundary situation, the Commission finds out that the decision, on the matter concerned, requires special procedures, such as hearing the crime victim, witness or expert, it may request from the assisting foreign authority to which the applicant has lodged the application for compensation, to carry out the relevant procedures, provided that the person being heard gives a consent to such a hearing or interview.

7. The hearing required in the relevant procedure may also be conducted via video conferencing or telecommunication, provided that the person being heard gives a consent.

8. The hearings referred to in the preceding paragraph shall be conducted by the Chairperson of the Commission or by a member of the Commission, duly authorized by the Chairperson of the Commission.

9. The decision of the Commission shall be sent to the assisting authority of the foreign Country and to the applicant directly or through this authority.

Article 35

Foreign transboundary situations

1. In case of a foreign transboundary situation, the applicant may submit an application to the Commission using the standard form defined in Article 34, paragraph 2. of this Law.

2. The Commission shall, send the application together with the accompanying documents to the competent authority of the Country from which the applicant seeks compensation as soon as possible. If the foreign decision-making authority does not accept the application, or requests additional information, the Commission shall immediately inform the applicant thereof.

3. The Commission shall ensure that the formal compensation application submitted to the foreign decision-making authority is made on a form specified by the authority of that Country.

4. The application together with the accompanying documents shall be sent in one of the official languages of the receiving Country or in one of the official languages of the EU which the receiving Country has declared it may accept.
5. If a foreign decision-making authority requests that a hearing or interview of a crime victim, witness or expert be held in the Republic of Kosovo, such hearing or interview shall be conducted by the Commission, provided that the person being heard gives a consent to such hearing or interview. The commission shall send a report on the hearing, to the foreign decision-making authority.
6. If a foreign decision-making authority requests that the hearing be conducted through the use of video-conferencing or telecommunication, such hearing shall be conducted in cooperation with the Commission, provided that the person being heard gives a consent to such hearing.
7. The Commission, in its role of assisting authority, should not assess the compensation application.
8. Actions taken by the Commission in the role of assisting authority may not be appealed and may not constitute grounds for application or reimbursement of fees or expenses by the applicant or the decision-making authority of the foreign Country.
9. In case the foreign decision-making authority does not recognize the right to compensation to the national of the Republic of Kosovo with permanent residence in the Republic of Kosovo as a result of citizenship, the Republic of Kosovo shall conduct a review of the right to compensation from the Crime Victim Compensation Program, in accordance with the provisions of this Law.
10. In order to exercise the right from paragraph 9. of this Article, the Applicant must document that the application addressed to the competent authority has been rejected on the basis of non-fulfillment of requirements of that country regarding citizenship.
11. The Applicant from paragraph 9. of this Article may submit a request in line with the provisions of this Law and only for the types of compensation provided by this Law.

CHAPTER VI CRIME VICTIM COMPENSATION PROGRAM

Article 36 Financing of Crime Victim Compensation Program

1. The Crime Victim Compensation Program will be funded from the Budget of the Republic of Kosovo for the Ministry of Justice as part of the annual law on budget.
2. The victim compensation program can also be funded through voluntary contributions and private donations in line with the Financial Control and Management Rules.
3. When issuing a conviction judgment, the court shall impose an additional fee for compensation of victims as following:
 - 3.1. General Department of the Basic Court, in the amount of twenty (20) Euros;
 - 3.2. Serious Crimes Department, in the amount of fifty (50) Euros;
 - 3.3. Special Department of the Basic Court in Prishtina, in the amount of one hundred (100) Euros.
4. During the regular budget process set out in the Law on Public Financial Management and Accountability, the Ministry of Justice shall make a budget request to fund a budgetary line for

the Crime Victim Compensation Program. The request of the Ministry of Justice shall take into account projections for the expected revenues from paragraph 3. of this Article, as well as the expenditures from the Compensation Program from previous years.

5. The level of budget allocations for the compensation program for crime victims will be done through regular budget processes, taking into account the revenues expected from paragraph 3. of this Article, the contributions paid to the compensation program based on the temporary suspension of criminal proceedings, revenues from the sale of confiscated illegal proceeds, revenues from confiscated bail in line with the law, as well as the general level of projected budget revenues and requests for financing from the Kosovo Budget.

Article 37 Financial Reporting

1. As part of the budget requirement under the Law on Public Financial Management and Accountability, the Ministry of Justice shall submit an annual report to the Ministry of Finance on:

- 1.1. the total number of applicants;
- 1.2. the number of applicants who have been denied compensation;
- 1.3. the number of applicants who have been granted compensation;
- 1.4. the amount of compensation granted to applicants;
- 1.5. commission and program expenses from previous years.

CHAPTER VII REGISTERS OF APPLICANTS AND DECISIONS ISSUED

Article 38 Record keeping

1. The Commission shall hold registers of applicants and compensation decisions. The content of these registers shall be regulated by an administrative instruction of the Ministry of Justice.

2. Registers will be kept on an individual basis, each marked with its serial number and case number.

3. The case number is the number attributed to the case upon submission of application to the Ministry of Justice.

4. The Ministry of Justice will create a digitized database.

Article 39 Information keeping

1. All files of applicants for compensation will be stored in accordance with the deadlines provided in the relevant applicable legislation.

2. Applications for compensation, evidence, expertise and records are sensitive personal data which must be processed and kept confidential, in accordance with the applicable law.

CHAPTER VIII TRANSFER OF APPLICATIONS AND RETURN OF UNDULY ACQUIRED FUNDS

Article 40 Transfer of applications

1. The claims of the beneficiary against the perpetrator shall be transferred to the Government of Kosovo, up to the amount of compensation, on the day of enforcement of the decision on recognition of the right to compensation.
2. Upon transfer of the claim based on paragraph 1. of this Article, the Government of the Republic of Kosovo will act in the capacity of the beneficiary in relation to the perpetrator.
3. The State Attorney's Office will undertake the necessary formal actions for realization of restitution, respectively compensation in accordance with the applicable legislation.

Article 41 Return of unduly acquired funds

1. Upon receiving information that the beneficiary's compensation was made on the basis of forged/falsified data or any possible fraud aiming to realize a compensation claim, the Commission and any other interested party shall inform the state prosecutor.
2. The beneficiary of the compensation under this Law, has the obligation to inform the Commission at any time if he/she receives compensation from other sources after receiving the compensation or until the enforcement of the decision of the Commission.

CHAPTER IX TRANSITIONAL AND FINAL PROVISIONS

Article 42 Transitional provisions

1. With entry into force of this Law, the Law No. 05/L-036 on Crime Victim Compensation shall be abrogated.
2. The members of the Commission that acquired a term of office before the entry into force of this Law, shall remain in office until the natural expiration of their term of office.
3. All applications processed before the entry into force of this Law, shall be treated with the law that is more favorable for the applicant, in line with the decision of the Commission on this issue.
4. Victims and their dependents, who have not been able to exercise the right to compensation under the repealed Law, but who meet the requirements for compensation under this Law, shall have the right to submit their applications for review by the Commission, if they consider that they meet the requirements based on this Law. The application from this paragraph cannot be submitted on the grounds of change in the amount of compensation under this Law.

Article 43 Secondary legislation

The secondary legislation foreseen in this Law shall be issued within six (6) months after the entry into force of this Law.

Article 44
Entry into force

This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 08/L-109
14 October 2022

Promulgated by Decree No. DL-321/2022 dated 28.10.2022 President of the Republic of Kosovo Vjosa Osmani-Sadriu

