



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

## DECREE FOR RATIFICATION OF THE INTERNATIONAL AGREEMENT

Pursuant to Article 18, paragraph 2 of the Constitution of the Republic of Kosovo, Article 10, paragraph 4 of the Law no. 04/L-052, on International Agreements and Article 4, paragraph 3 of the Law No. 03/L-044 on the Ministry of Foreign Affairs and Diplomatic Service, I hereby issue the following:

### **Decree**

The ratification of the Agreement on mutual legal assistance in criminal matters, between the Government of the Republic of Kosovo and the Government of Hungary, signed in Prishtina on June 9, 2015, and received at the Office of the President of the Republic of Kosovo on June 22, 2015.

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-014-2015

Prishtina, July 06, 2015

---

Atifete Jahjaga  
President of the Republic of Kosovo

**AGREEMENT**  
**BETWEEN**  
**THE GOVERNMENT OF THE REPUBLIC OF KOSOVO**  
**AND**  
**THE GOVERNMENT OF HUNGARY**  
**ON**  
**MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS**

**PREAMBLE**

The Government of the Republic of Kosovo and the Government of Hungary, 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 judicial co-operation in Europe;

Have 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 this 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 legal 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 through the Central Authorities designated by the Parties. The Central Authorities shall communicate directly with one another as to the enforcement of the provisions of this Agreement.
- (2) The Central Authorities are the Ministry of Justice for the Republic of Kosovo and the Minister responsible for Justice and the General Prosecutor of Hungary.
- (3) The request for mutual legal assistance and supporting documents shall be sent in original or certified copies.
- (4) Requests for mutual legal assistance shall be submitted in Albanian, Serbian or English to the Republic of Kosovo and Hungarian or English to Hungary.

## **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 whom the documents shall be served,
  - e) where necessary, other information relevant to the execution of the request, such as specification of any time limit within which the compliance with the request is desired.
- (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) If banking information is requested, the letters rogatory shall expressly state that the banking information provided upon the request shall be used solely for the purposes of the criminal proceedings with regard to the requested legal assistance.
- (4) 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.
- (5) The request and supporting documents shall be signed and stamped by the competent authorities of the requesting Party. Further authentication shall not be required.

## **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 statute of limitation has occurred under the law of either Parties;
- c) if the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, public order or its other essential interests.
- d) There are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinion or that that person's position may be prejudiced for any of those reasons;

(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**

### **Handling of the 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 national law, that Party shall immediately inform the requesting Party and specify the reasons thereof.

(2) Upon execution of a request for assistance, the requested Party on the specific request of the requesting Party shall return the original request together with all 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.

(4) If the requested Party considers that the information contained in the request is not sufficient to enable the request to be dealt with, it may request additional information.

## **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 items 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 national law.
- (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 national 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 national 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) Officials of the requesting Party and other interested persons or their representatives may be present, as observers, at the execution of the letters rogatory, if the requested Party consents thereto.
- (6) To that end and at 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 if:

- a) the offence referred to in the letters rogatory is punishable under both the law of the requesting Party and the law of the requested Party,
- b) execution of the letters rogatory is consistent with its national law,

- c) the offence motivating the letters rogatory is an extraditable offence in the requested Party.

## Article 9

### Hand over and return of property, documents and records

(1) The requested Party may delay the handing over of any property, documents and records requested, if it needs the said property, documents and records in connection with pending criminal proceedings.

(2) Before refusing or postponing the 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 documents and records, 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.

(4) Paragraph 3 of this Article shall be without prejudice to any legitimate interest of interested persons, including *bona fide* third parties in relation to seized and surrendered items.

## CHAPTER III

### SERVICE OF SUMMONS AND JUDICIAL DOCUMENTS APPEARANCE OF WITNESSES, EXPERTS AND DEFENDANTS

## Article 10

### Service of summons and judicial documents

(1) The requested Party shall effect service of summons and judicial documents which are transmitted to it for this purpose by the requesting Party.

(2) 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 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.

(3) 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 or defendants before judicial authorities of the requesting Party**

(1) If the requesting Party considers the personal appearance of a witness, expert or defendant before its judicial authorities especially necessary, it shall specify in its request for service of the summons and the requested Party shall invite the witness, expert or defendant to appear. The requested Party shall inform the requesting Party of the reply of the witness, expert or defendant.

(2) A witness, expert or defendant 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 in accordance with the national law of the requesting Party. If a specific request is made, the requested Party may grant the witness, expert or defendant an advance. The amount of the advance shall be endorsed on the summons and shall be refunded by the requesting Party.

## **Article 12**

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

(1) A witness or expert, whatever his or her 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 or her personal liberty in the territory of that Party in respect of acts or convictions anterior to his or her departure from the territory of the requested Party.

(2) A person, whatever his or her nationality, summoned before the judicial authorities of the requesting Party to answer for acts forming the subject of proceedings against him or her, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty for acts or convictions anterior to his or her 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, expert or defendant, having had for a period of fifteen consecutive days from the date when his or her 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.

## Article 13

### Hearing by videoconference

(1) If a person is in the other Party's territory and has to be heard as a witness or expert by the judicial authorities of the requesting Party, the latter may request that the hearing take place by videoconference. The requesting Party may also request the hearing of a defendant by videoconference. In addition to the grounds for refusal of mutual legal assistance referred to in Article 4, the legal assistance may also be refused if:

- a) the defendant does not consent; or
- b) the execution of such a measure in a particular case would be contrary to the fundamental principles of the law of the requested Party.

(2) The practical arrangements regarding the hearing shall be agreed between the Parties. When agreeing such arrangements, the requested Party shall undertake to:

- a) summon the witness or expert concerned of the time and the venue of the hearing or;
- b) summon the defendant to appear for the hearing in accordance with the forms laid down by its national law and inform him or her about his or her rights under the law of the requesting Party, in such a time as to allow him or her to exercise his rights of defence effectively;
- c) ensure the identification of the person to be heard.

(3) In case of a hearing by videoconference, the following rules shall apply:

- a) the competent judicial authority of the requested Party shall be present during the hearing, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identification of the person to be heard and the respect for the fundamental principles of the law of the requested Party. If the requested Party is of the view that during the hearing the fundamental principles of its national law are being infringed, it shall immediately take the necessary measures to ensure that the hearing continues in accordance with the said principles;
- b) measures for the protection of the person to be heard shall be agreed, where necessary, between the Parties;
- c) the hearing shall be conducted directly by, or under the direction of, the judicial authority of the requesting Party in accordance with its national law;
- d) at the request of the requesting Party or the person to be heard, the requested Party shall ensure that the person to be heard is assisted by an interpreter, if necessary;
- e) the person to be heard may claim the right not to testify which would accrue to him or her under the law of either the Parties; the person concerned shall be informed about this right in advance of the hearing.



(4) The requested Party shall on the conclusion of the hearing draw up minutes indicating the date and place of the hearing, the identity of the person heard, the identities and functions of all other persons in the requested Party participating in the hearing, any oaths taken and the technical conditions under which the hearing took place. The minutes shall be forwarded by the requested Party to the requesting Party.

(5) Each Party shall take the necessary measures to ensure that, where the person is being heard within its territory in accordance with this Article and refuses to testify when under an obligation to testify or does not testify the truth, its national law applies in the same way as if the hearing took place in a national procedure.

#### **Article 14**

##### **Temporary transfer of detained persons to appear as witnesses before judicial authorities of the requesting Party**

(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 substantial 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.

(4) Transit of the person in custody through the territory of either Party, shall be granted on application, accompanied by all necessary documents addressed by Central Authority of the requesting Party, to the Central Authority of the Party through whose territory transit is requested.

(5) The surrendered person has the rights specified in Article 12 of this Agreement.

**CHAPTER IV**  
**TRANSFER OF CRIMINAL PROCEEDINGS**

**Article 15**

**Conditions for transfer of criminal proceedings**

(1) If a national of one Party or a person having a residence on its territory has committed a criminal offence on the territory of the other Party, which is punishable under the law of both Parties, the Party in which the offence has been committed may request from the other Party the transfer of criminal proceedings.

(2) If the requested Party accepts the request for transfer of criminal proceedings, the competent authorities of the requested Party shall conduct criminal proceedings in accordance with the national law of that Party.

**Article 16**

**Content of the request**

(1) Request for transfer of criminal proceedings shall indicate the facts of the case and as much comprehensive data about the defendant as possible, including his or her citizenship and place of residence.

(2) The following documents shall be enclosed with the request:

- a) original documents of the case or certified copies thereof;
- b) an excerpt from the provisions of the Criminal Code that is applied in the requesting Party in that criminal proceedings.

(3) If the requested Party does not accept the request for transfer of criminal proceedings it shall immediately notify the requesting Party and shall return the documents enclosed with the request.

**Article 17**

**Effects of the transfer in the requesting Party**

The judicial authorities of the requesting Party shall temporarily waive from the prosecution measures regarding the offences noted in the request for the transfer of criminal proceedings, such measures shall be anyway waived from if:

- a) the competent judicial authority of the requested Party finally terminated the criminal proceedings owing to the lack of evidence or because the committed offence is not a criminal offence; or

- b) the defendant has been acquitted in the requested Party with a final decision; or
- c) a decision of the court which has been made in the requested Party has already been executed or the judgment cannot be executed under the law of the requested Party; or
- d) pardon or amnesty was granted to the defendant; or
- e) expiration of the statute of limitations has occurred under the law of the requested Party.

### **Article 18**

#### **Obligation to inform**

For the purpose of granting the judicial authorities of the requesting Party the information necessary to finally waive from the criminal prosecution in order to comply with the *ne bis in idem* principle, the requested Party shall notify the requesting Party about the outcome of the criminal proceedings conducted on the basis of a request for transfer of criminal proceedings by transmitting the original final decision or a certified copy thereof.

## **CHAPTER V MISCELLANEOUS PROVISIONS**

### **Article 19**

#### **Information from judicial records**

(1) The requested Party shall communicate extracts from and information relating to judicial records, requested by the judicial authorities of the requesting Party for the purpose stipulated in paragraph (2) a) of Article 21, to the same extent that these may be made available to its own judicial authorities in a similar 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 national law of the requested Party.

### **Article 20**

#### **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 for the purpose of registering in the criminal records.

(2) The Central Authorities of both Parties shall communicate such information to one another.

## Article 21

### Data protection

(1) Without prejudice to paragraph (2) of this Article, personal data can be gathered and transmitted only if it is necessary and proportionate for the purposes indicated in the request for legal assistance.

(2) Personal data transferred from one Party to the other 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 for the following purposes exclusively:

- a) for the purpose of the criminal proceedings in which the legal assistance was requested under this Agreement;
- b) for other judicial and administrative proceedings directly related to the proceedings mentioned under subparagraph (a) ;
- c) for preventing an immediate and serious threat to public security.

(3) 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. The consent shall be given in accordance with the national law of the requested Party.

(4) 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.

(5) At the request of the Party that transfers personal data obtained as a result of the execution of a request made under this Agreement the Party to which the data have been transferred shall give information on the use made with such data.

(6) The personal data subject shall be enabled in accordance with the national legislation of the Parties:

- a) to request information regarding the processing of his or her personal data by the competent authorities;
- b) to request rectification, erasure or blocking of his or her personal data;
- c) to have remedy if his or her request is not complied with.

(7) Personal data transferred under this Agreement shall be processed and deleted in line with the national laws of the data receiving Party. Irrespective of these limits the data transferred shall be deleted as soon as they are no longer required for the purpose for which they were transferred.

(8) This Article shall not prejudice the ability of the requested Party to impose additional conditions in a particular case where the particular request for assistance could not be complied with in the absence of such conditions. Where additional conditions have been

imposed in accordance with this paragraph, the requested Party may require the requesting Party to give information on the use made of the evidence or information.

(9) Where, following disclosure to the requesting Party, the requested Party becomes aware of circumstances that may cause it to seek an additional condition in a particular case, the requested Party may consult with the requesting Party to determine the extent to which the evidence and information can be protected.

## **Article 22**

### **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, experts or defendants in the territory of the requesting Party, as described in Article 11 of this Agreement;
- b) costs incurred by the transfer of a person in custody carried out under Article 14 of this Agreement.
- c) costs of a substantial or extraordinary nature.
- d) the cost of establishing the video link, costs related to the servicing of the video link in the requested Party, the remuneration of interpreters provided by it, costs incurred by the appearance of witnesses and experts in the requested Party shall be refunded by the requesting Party to the requested Party, unless the latter waives the refunding of all or some of these expenses.

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

## **CHAPTER VI FINAL PROVISIONS**

### **Article 23**

#### **Scope of effects**

This Agreement shall apply to all requests for mutual legal assistance submitted after the date of entry into force of this Agreement.

### **Article 24**

#### **Settlement of disputes**

Any dispute regarding the interpretation of this Agreement shall be settled by the Parties through diplomatic channels.

## Article 25

### Relation of the Agreement to the other international Agreements

- (1) The provisions of this Agreement shall not affect the commitments of the Parties envisaged by other bilateral or multilateral international agreements, or their membership in international organizations.
- (2) This Agreement shall not affect the obligations which may arise from the membership of Hungary in the European Union, consequently the provisions of the present Agreement shall not be invoked or interpreted in such a way as to invalidate or otherwise affect the obligations of Hungary imposed by the Treaties on which the European Union is founded.

## Article 26

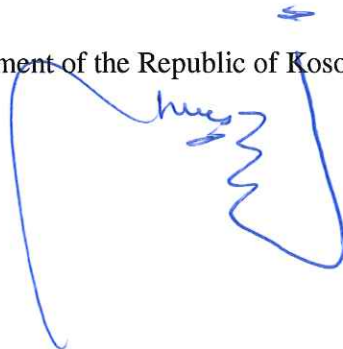
### Entry into force, duration, modification and termination

- (1) This Agreement shall enter into force on the thirtieth day after the date of the receipt of the last written notification by which the Parties have informed each other, through the diplomatic channels, that their internal legal procedures necessary for its entering into force have being completed.
- (2) This Agreement is concluded for an indefinite period.
- (3) This Agreement may be amended with the consent of the Parties. The changes and amendments shall be made in separate protocols that become integral parts of this Agreement and shall enter into force in accordance with paragraph 1 of this Article.
- (4) Either Party may terminate this Agreement at any time, by giving a six months written notification to the other Party through diplomatic channels.

IN WITNESS WHEREOF, the duly authorized Representatives of the Parties have signed this Agreement.

Done at Pristina on 09.06.2015 in two originals, each in Albanian, Serbian, Hungarian and English languages, all texts being equally authentic. In case of divergence in interpretation, the English version shall prevail.

For the Government of the Republic of Kosovo



For the Government of Hungary

