

LAW NO. 08/L-229

**ON RATIFICATION OF THE AGREEMENT BETWEEN THE REPUBLIC OF KOSOVO
AND THE REPUBLIC OF SLOVENIA ON MUTUAL ENFORCEMENT OF JUDGMENTS IN
CRIMINAL MATTERS**

Assembly of the Republic of Kosovo;

Based on Articles 18 and 65 (1) of the Constitution of the Republic of Kosovo,

Adopts:

**LAW ON RATIFICATION OF THE AGREEMENT BETWEEN THE REPUBLIC OF KOSOVO
AND THE REPUBLIC OF SLOVENIA ON MUTUAL ENFORCEMENT OF JUDGMENTS IN
CRIMINAL MATTERS**

**Article 1
Purpose**

This Law aims to ratify the Agreement between the Republic of Kosovo and the Republic of Slovenia on Mutual Enforcement of Judgments in Criminal Matters, signed by the Ministers of Justice of both countries on 28.10.2016 in Slovenia.

**Article 2
Scope**

This Law applies to all state administration bodies and judicial bodies in Kosovo that are responsible for international legal cooperation.

**Article 3
Attached Documents**

The text of the Agreement between the Republic of Kosovo and the Republic of Slovenia on Mutual Enforcement of Judgments in Criminal Matters is attached as Annex to this Law.

**Article 4
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-229
8 June 2023**

**Promulgated by Decree No. DL-115/2023 dated 22.06.2023 President of the Republic of
Kosovo Vjosa Osmani-Sadriu**

* Law No. 08/L-229, "On Ratification of the Agreement between the Republic of Kosovo and the Republic of Slovenia on Mutual Enforcement of Judgments in Criminal Matters", attached with agreement is published in the website of the Official Gazette (gzk.rks-gov.net)

AGREEMENT

BETWEEN

THE REPUBLIC OF KOSOVO

AND

THE REPUBLIC OF SLOVENIA

ON THE MUTUAL ENFORCEMENT OF JUDGMENTS IN CRIMINAL MATTERS

The Republic of Kosovo and the Republic of Slovenia (hereinafter "the Parties"),

aware of the need to further improve their relations of mutual trust and cooperation in the field of criminal justice,

considering that such cooperation should further the ends of justice and the social rehabilitation of sentenced persons,

considering that this aim can be best achieved by enforcing criminal sentences in the state of the sentenced person's permanent residence or citizenship,

have agreed as follows:

CHAPTER ONE

General provisions

Article 1

The Parties agree to, on request, in accordance with the requirements of this Agreement, enforce final judgments in criminal matters issued by a court of one of the Parties against a national of the other Party or against a person who has a residence in its territory, i.e.:

1. to assume the enforcement of custodial sentences and other measures involving deprivation of liberty;
2. to assume supervision of persons who have been given a suspended sentence for a period of time during the probation period.

Article 2

For the purpose of this Agreement:

1. "Sentencing State" is the Party in which the judgement to be enforced or supervised is issued;

2. "Executing State" is the Party in which the judgement adopted in the other Party is being enforced;
3. "Other measures involving deprivation of liberty" are those security and educational measures provided by the criminal legislation of the Parties which result in the deprivation of liberty;
4. "Suspended sentence" is a suspended sentence and a suspended sentence with custodial supervision, as provided in the criminal legislation of the Parties.

Article 3

- (1) When applying this Agreement, the competent authorities of the Parties shall communicate in writing – the Republic of Kosovo via the Ministry of Justice of the Republic of Kosovo and the Republic of Slovenia via the Ministry of Justice of the Republic of Slovenia.
- (2) The diplomatic channel shall thereby not be excluded, if there are justified grounds for it.
- (3) In urgent cases, the competent authorities of each Party may send requests and notifications under this Agreement via the International Criminal Police Organization (INTERPOL).

Article 4

- (1) Requests and documentation shall be submitted to the Republic of Kosovo in the Albanian, Serbian, or English language and to the Republic of Slovenia in the Slovenian or English language.
- (2) The legalisation of documents referred to in paragraph 1 of this Article is not necessary.

Article 5

- (1) Enforcement or supervision under this Agreement shall be assumed if the following conditions are met:
 1. if the sentenced person is a citizen or resident of the Executing State;
 2. if the judgment is final and enforceable;
 3. if the sentenced person gives consent thereto;
 4. if the offence which is the basis of the final judgment is considered a criminal offence under the laws of both Parties;
 5. if the state that imposed the sentence and the state that assumed the enforcement thereof both agree to the transfer of enforcement or supervision.
- (2) Transfer of enforcement including the transfer of a person is possible if the duration of the sentence that the sentenced person has to serve is not less than six months from the date of submission of the request. Exceptionally, the Parties may agree on the transfer of enforcement even if the duration of the criminal sentence that the sentenced person has to serve is shorter than six months.
- (3) If the duration of the sentence is not determined, in order to assess whether this time is not shorter than six months, the longest time after which the measure must be dismissed in accordance with the law of the Sentencing State shall be taken into account.
- (4) If the sentenced person cannot give a legally valid consent for the transfer of supervision or enforcement, it is necessary to obtain the consent of his legal representative under the law of the state in which he or she resides.

(5) The consent referred to in point 3 of paragraph 1 of this Article shall not be required if the person has avoided the execution or further execution of the sentence by his arrival in or fleeing to the requested state.

Article 6

Enforcement or supervision shall not be assumed:

1. where enforcement or supervision would be contrary to the fundamental principles of the legal system of the requested state;
2. if the offence which is the basis of the final judgment is considered by the requested state to be of a political or military nature;
3. where enforcement or supervision would be contrary to other international obligations of the requested state;
4. if criminal proceedings for the same offence are ongoing against the sentenced person in the requested state;
5. where the requested state is unable to enforce the sentence due to the statute of limitations;
6. where the sentenced person, given his age at the time of the offence, could not have been prosecuted in the requested state;
7. if the sentenced person has already been convicted for or acquitted of the same criminal offence by a final judgement or the criminal proceedings against this person were finally dismissed or the charge against this person was dismissed by a final decision;
8. if the judgment was delivered in absentia;
9. if the judgment was delivered by an extraordinary court;
10. if the judgment imposing a sentence involving deprivation of liberty, irrespective of the second paragraph of Article 11 of this Agreement, cannot be implemented by the requested state in accordance with its legal or healthcare system.

Article 7

- (1) The requested state shall, without delay, inform the requesting state of its acceptance or rejection of the request for assumption of enforcement or supervision.
- (2) In the event of full or partial refusal of the assumption of enforcement or supervision, the requested state shall specify the reasons for such refusal.

Article 8

- (1) Enforcement shall be carried out exclusively under the law of the Executing State.
- (2) Each Party may pardon or grant amnesty to the sentenced person.
- (3) Only the Sentencing State has the jurisdiction to decide on extraordinary legal remedies.
- (4) If the request for enforcement is based on a judgment that is subsequently repealed or amended in the Sentencing State, the latter shall immediately notify the Executing State thereof. On the basis of the new decision, the court of the Executing State shall decide on the further serving of the custodial sentence or other measures involving deprivation of liberty under the provisions of this Agreement.
- (5) The Parties shall inform each other of the decisions referred to in the second and third paragraphs of this Article.

Article 9

The place, time and manner of surrender of the sentenced person shall be determined on the basis of mutual arrangement between the competent authorities of the Parties.

CHAPTER TWO

Enforcement of a sentence

Article 10

- (1) If a person who is a national of a Party or a person who has residence in the territory thereof is convicted of an offence with a custodial sentence or other measure involving deprivation of liberty in the other Party, either Party may request that the enforcement of the sentence of imprisonment or other measure involving deprivation of liberty be transferred to the Party of the sentenced person's citizenship or residence.
- (2) Notwithstanding the provision of the first paragraph of this Article, only the Sentencing State may request enforcement of a custodial sentence or other measure involving deprivation of liberty if the transfer of enforcement of a sentence does not involve the transfer of a person.
- (3) On the enforcement of a sentence involving the transfer of a person, this Agreement shall not preclude the right of the sentenced person, his legal representative, spouse, cohabiting partner, relative in a direct line, brother or sister to file a request for the transfer of enforcement with the court that issued the decision or with the competent authority of the Sentencing State or the state of the sentenced person's citizenship or residence.
- (4) The court or the competent authority of the Sentencing State shall inform the sentenced person of the possibility of serving the custodial sentence or other measure involving deprivation of liberty in the state of his citizenship or residence.

Article 11

- (1) The court of the Executing State shall, in accordance with its law, determine the custodial sentence or other measure involving deprivation of liberty that must be enforced, whereby it is bound by the state of the facts substantiating the judgment and must take into consideration the custodial sentence or other measure involving deprivation of liberty imposed in the Sentencing State.
- (2) When the custodial sentence or other measure involving deprivation of liberty is incompatible with the law of the Executing State in terms of duration, the court of the Executing State may decide to adapt the sentence only if it exceeds the maximum sentence provided by its national law for the same criminal offence. In this case, the adapted sentence may not be less than the maximum sentence provided by the law of the Executing State for the same criminal offence.
- (3) When the custodial sentence or other measure involving deprivation of liberty is by its nature incompatible with the law of the Executing State, the court of the Executing State may adapt it according to the sentence or the measure provided for the same criminal offence under its national legislation. Such a sentence or measure shall match as far as possible the sentence that was issued in the Sentencing State.
- (4) The adapted sentence shall not be more severe in its nature or length than the sentence imposed by the Sentencing State.
- (5) Time spent in a prison of the Sentencing State shall be in whole included in the custodial sentence or other measure involving deprivation of liberty to be served in the Executing State.

Article 12

- (1) If the judgment is based on several criminal offences, the transfer of enforcement may be requested for only a part of the sentence that relates to any of those particular offences.
- (2) The Sentencing State shall define the part of the sentence for which the transfer of enforcement is requested.
- (3) Should the Sentencing State fail to define the part of the sentence for which the transfer of enforcement is requested or fails to do so by the deadline set by the Executing State, the Executing State shall determine, according to its national law, the part of the sentence to be enforced.

Article 13

- (1) By assuming enforcement, the enforcement in the Sentencing State is suspended. If the sentenced person is imprisoned in the Sentencing State, his imprisonment shall last until his transfer to the Executing State.
- (2) The right of the Sentencing State to enforcement shall cease when the sentenced person has served the whole custodial sentence or other measure involving deprivation of liberty in the Executing State or when his sentence has been finally dismissed.
- (3) The Sentencing State regains the right to enforcement if the sentenced person has avoided serving his sentence in the Executing State. The Executing State shall inform the Sentencing State thereof.

CHAPTER THREE

Supervision

Article 14

- (1) Pursuant to a request under the terms of this Agreement, the Parties shall within the probation period mutually supervise persons to whom a court in one Party has issued a suspended sentence.
- (2) Supervision shall be carried out in the Party in which the sentenced person resides.

Article 15

- (1) Supervision is carried out exclusively pursuant to the law of the Party that assumed such supervision.
- (2) When the nature or duration of the measure of supervision or the duration of the probation period is incompatible with the law of the Executing State, it may be adapted in accordance with the nature or duration of the supervision measures or the duration of the probation period provided for the same criminal offence under the legislation of the Executing State. The adapted supervision measure or duration of the probation period must correspond as far as possible to the measure or duration of probation determined by the Sentencing State.
- (3) If the supervision measures or the duration of the probation period were adapted because their duration exceeds the maximum duration under the law of the Sentencing State, the duration of the adapted supervision measure or probation period shall not be shorter than the maximum possible duration provided for the same criminal offence by the law of the Executing State.

(4) Supervision measures imposed in the Executing State should not be more severe in nature and duration than those imposed in the Sentencing State.

Article 16

Revocation of a suspended sentence is exclusively in the competence of the Sentencing State.

Article 17

(1) On the basis of a request, which shall be supported by the documentation referred to in Article 20 of this Agreement, the requested state shall, without delay, inform the requesting state whether its request will be granted.

(2) The Executing State shall inform the Sentencing State of the conditions and supervision measures, of any circumstances that might lead to the revocation of the suspended sentence, and of the expiration of the probation period.

Article 18

(1) The Sentencing State shall, without delay, inform the Executing State of the revocation of a suspended sentence.

(2) If the Sentencing State revokes a suspended sentence, the Executing State may request assumption of enforcement of the sentence.

Article 19

(1) If the supervision is assumed further measures relating to enforcement in the Sentencing State shall be temporarily suspended.

(2) The right of the Sentencing State to enforcement shall cease if no circumstance occurred during the probation period that would require the suspended sentence to be revoked under its law.

CHAPTER FOUR

Common procedural provisions

Article 20

(1) When filing the request, or at the request of the Executing State, the Sentencing State shall provide the following documentation:

1. the original or a verified copy of the judgment with proof of finality and, where needed, enforceability;
2. a copy of the text of the legal provisions applied;
3. information on the sentenced person, including his citizenship and residence;
4. a certificate of any period of imprisonment served or other measure involving deprivation of liberty which is to be counted towards the sentence;
5. in so far as is possible, a statement of the sentenced person proving his consent to the transfer of enforcement or supervision, unless pursuant to the fifth paragraph of Article 5 of this Agreement his consent is not necessary;
6. other information that may be relevant for deciding on the request.

(2) When filing the request, or at the request of the Sentencing State, the Executing State shall provide the following documentation:

1. information on the sentenced person, including his citizenship and place of residence;
2. a copy of the applicable legal provisions;
3. other information that might be relevant for deciding on the request.

Article 21

(1) If the requested state deems the submitted information and documentation to be insufficient, it shall require the supplementation thereof within a reasonable period, which may be extended upon the reasoned request of the requesting state.

(2) If the request for supplementation is not granted, the decision on the request for the transfer of enforcement shall be made on the basis of the existing information and documentation.

Article 22

(1) In urgent cases, the requesting state may request temporary detention for the purpose of securing the enforcement before forwarding the request for recognition and enforcement of the judgment.

(2) The request shall contain:

1. the necessary data for establishing the identity of the sentenced person;
2. a description of the facts and legal qualification of the offence;
3. data on the existence of the final judgment of conviction;
4. a statement that the request will be submitted.

(3) If the requested state does not receive the request within 18 days of the date of the temporary detention, the detention shall be terminated. Following a reasoned request to this end, the detention may be extended to a maximum of 40 days following the date of the ordered detention.

(4) The requested state may order the detention of the sentenced person from the date of the receipt of the request until the final conclusion of the proceedings to execute the request for recognition and enforcement of the judgment in accordance with its national law.

Article 23

The Executing State shall inform the Sentencing State:

1. when the sentence is executed;
2. if the sentenced person avoids the execution of a sentence;
3. if the Sentencing State requires a special report.

Article 24

(1) A Party shall, at the request of the other Party, permit the transit of the sentenced person that a third state is transferring to the Party requesting the transit. The requested state is not obliged to allow the transit of its own citizens or persons who have been sentenced for military or political criminal offences.

(2) The requirements and manner of transit and costs shall be governed by mutual agreement of the competent authorities of the Parties.

Article 25

(1) The expenses incurred in the transfer of a sentenced person for the purpose of enforcement of a sentence shall be borne by the Executing State, except for those costs incurred in the territory of the Sentencing State.

(2) The state requesting that the sentenced person's transfer be made by plane shall bear the costs incurred in connection therewith.

Article 26

This Agreement shall also apply to final judgments issued prior to its entry into force.

CHAPTER FIVE

Final provisions

Article 27

Any dispute that may arise upon the application or interpretation of this Agreement shall be settled by means of consultation between the competent authorities or through diplomatic channels.

Article 28

(1) This Agreement shall enter into force on the first day of the next month after the date of receipt of the last written notification by which the Parties notify each other through diplomatic channels that their internal legal procedures necessary for its entry into force have been completed.

(2) This Agreement is concluded for an indefinite period of time. Either Party may terminate the Agreement by written notice through diplomatic channels. The Agreement shall expire six months after the receipt of such written notice of termination.

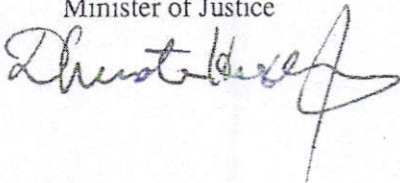
(3) Upon termination, this Agreement shall continue to apply to the enforcement of the sentence for persons who have been transferred pursuant to the provisions thereof.

(4) This Agreement may be amended at any time by written agreement between the Parties. Any such amendment will enter into force in compliance with the procedure provided in paragraph 1 of this Article.

Done in... SLOVENIA ...on... 28.10.2016 ... in two originals, in the Albanian, Serbian, Slovenian and English languages, all being equally authentic. In case of different interpretation, the English text shall prevail.

FOR THE REPUBLIC OF KOSOVO

Dhurata Hoxha
Minister of Justice



FOR THE REPUBLIC OF SLOVENIA

mag. Goran Klemenčič
Minister of Justice

