

**LAW NO. 04/L-213  
ON INTERNATIONAL LEGAL COOPERATION IN CRIMINAL MATTERS**

**Assembly of Republic of Kosovo,**

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

Approves

**LAW ON INTERNATIONAL LEGAL COOPERATION IN CRIMINAL MATTERS**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1  
Purpose**

1. This law establishes the conditions and procedures for international legal cooperation in criminal matters between the Republic of Kosovo and other states, unless otherwise provided by international agreements.
2. International legal cooperation may also take place in relation to international organisations or institutions, as appropriate.
3. In the absence of an international agreement between the Republic of Kosovo and another state, international legal cooperation shall be administered on the basis of the principle of reciprocity.
4. Judicial procedures for international legal cooperation are regulated by the provisions of the criminal procedure, unless otherwise provided by this Law.
5. The Republic of Kosovo shall comply with the formalities and procedures explicitly indicated by requesting states, if such formalities and procedures are not contrary to the fundamental principles of national law.

**Article 2  
Limits of cooperation**

Application of this law is subordinate to the protection of interests of sovereignty, security, public order, and other interests of the Republic of Kosovo as defined by the Constitution.

**Article 3  
Definitions**

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

1.1. **International legal cooperation in criminal matters** – any form of assistance requested or provided by another state, organisation or institution for the purpose of supporting criminal proceedings;

1.2. **Request** – the act used to request international legal cooperation;

- 1.3. **Requesting state** – the state which submitted a request for international legal cooperation;
- 1.4. **Requested state** – the state addressed with a request for international legal cooperation;
- 1.5. **Ministry** - the Ministry of Justice of the Republic of Kosovo;
- 1.6. **National judicial authority** - courts and prosecution offices of the Republic of Kosovo as designated by law;
- 1.7. **National law** – the law of the Republic of Kosovo;
- 1.8. **Foreign judicial authority** - authority of another state which is competent according to the law of that state to provide or request international legal cooperation;
- 1.9. **International wanted notice** - decision allowing for the publication by the International Criminal Police Organisation -INTERPOL of a notification seeking the provisional arrest of a person with a view to extradition;
- 1.10. **Judicial decision** - judgment, ruling, order, or any other decision issued by a judicial authority;
- 1.11. **Sentencing state** - the state where a sentence was imposed on a person who has been or may be transferred;
- 1.12. **Administering state** - the state where a person has been or may be transferred in order to serve a sentence;
- 1.13. **Extradition** - for the purpose of this Law shall also mean temporary surrender.

#### **Article 4**

##### **Methods and language of communication**

1. Requests for international legal cooperation shall be transmitted through the Ministry. Where necessary, diplomatic channels may also be used.
2. In urgent cases, national judicial authorities may provide assistance even if the request is received directly, through INTERPOL, or in any other form which produces a written record, on condition that the requesting state assures that it will send the request in original within thirty (30) days in accordance with paragraph 1. of this Article.
3. If the request and supporting documents are in a foreign language, they should be accompanied by certified translations into Albanian or Serbian. Certified translations in English may also be accepted based on reciprocity.
4. The Minister may allow direct cooperation between national and foreign judicial authorities, as deemed appropriate.

#### **Article 5**

##### **Confidentiality**

1. The Ministry shall ensure the confidentiality of requests for international legal cooperation and of the information contained in the requests if the requesting state so requires.
2. If the requirement referred to in paragraph 1. of this Article cannot be met, the Ministry shall notify the requesting state thereof.

## **CHAPTER II EXTRADITION**

### **SUB CHAPTER I EXTRADITION FROM THE REPUBLIC OF KOSOVO TO OTHER STATES**

#### **Article 6 Purpose**

1. A person sought by another state for the purpose of criminal proceedings or for the enforcement of a sentence may be extradited from the Republic of Kosovo to that state under the conditions foreseen by the present law.
2. The following persons cannot be extradited against their will:
  - 2.1. Kosovo citizens, unless otherwise provided by an international agreement between the Republic of Kosovo and the requesting state or by international law, as per Article 35 paragraph 4. of the Constitution of the Republic of Kosovo. An international agreement may be concluded for the purpose of extraditing an individual;
  - 2.2. persons who have been granted political asylum in the Republic of Kosovo;
  - 2.3. foreigners who enjoy immunity of jurisdiction in the Republic of Kosovo, within the limits of international obligations assumed by the Republic of Kosovo.
3. The status of a citizen of the Republic of Kosovo or of a political refugee is determined at the time of receipt of the request for extradition.

#### **Article 7 Temporary surrender**

On the basis of an international agreement, a person may be temporarily surrendered to another state on condition that after being heard before the foreign judicial authority he or she be returned to the Republic of Kosovo, in order to serve the sentence imposed on him or her.

#### **Article 8 Place of perpetration**

1. Extradition shall not be permitted for criminal offences fully committed in the territory of the Republic of Kosovo and may not be permitted for criminal offences partially committed in the territory of the Republic of Kosovo.
2. If a criminal offence has been committed against a citizen of the Republic of Kosovo outside the territory of the Republic of Kosovo, extradition may be permitted on condition that national judicial authorities do not commence or terminate criminal proceedings for the same offence.

#### **Article 9 Double criminality**

Extradition shall be permitted only for criminal offences punishable by both the national law and by the law of the requesting state.

**Article 10**  
**Criminal offences for which extradition is permitted**

1. When extradition is requested for criminal prosecution, it shall be permitted only for criminal offences where the maximum period punishable by deprivation of liberty is at least one (1) year or by a more severe punishment under both the national law and the law of the requesting state.
2. When extradition is requested for the enforcement of a sentence, it may be permitted if the duration of the sentence, or the remaining part of the sentence, exceeds the period of four (4) months of imprisonment.
3. If the request for extradition includes several separate offences each of which is punishable under the national law and the law of the requesting state by deprivation of liberty, but some of which do not fulfill the condition with regard to the amount of punishment which may imposed, extradition may be permitted with respect to all of them.

**Article 11**  
**Expiry of statutory limitation period**

Extradition shall not be permitted in cases where, pursuant to the national law or the law of the requesting state, the statutory limitation period for criminal prosecution or enforcement of sentence is expired.

**Article 12**  
**Reasonable suspicion**

Extradition shall be permitted when there is sufficient evidence to support a reasonable suspicion that the person has committed the criminal offence for which extradition is requested or if there is an enforceable judgment thereof.

**Article 13**  
**Ne bis in idem**

1. Extradition shall not be permitted if a final judgment was passed by a national judicial authority against the person sought for the criminal offence or offences for which extradition is requested. Extradition may be permitted if national judicial authorities have decided not to commence or to terminate proceedings for the same criminal offence.
2. Extradition shall not be permitted if a final judgment was passed by the judicial authorities of a third state against the person sought for the criminal offence for which extradition is requested provided that an international agreement on mutual recognition and enforcement of criminal judgments between the Republic of Kosovo and that third state is in force.

**Article 14**  
**Political offences**

1. Extradition shall not be permitted if the offence upon which the request is based is a political offence or an offence connected to a political offence.
2. For the purposes of this Law, the following offences shall not be deemed to be political offences:
  - 2.1. murder and attempted murder of the head of state or his or her family members;
  - 2.2. genocide, crimes against humanity, war crimes, and terrorism.

**Article 15**  
**Military offences**

Extradition shall not be permitted for criminal offences under military law which are not criminal offences under ordinary criminal law.

**Article 16**  
**Death penalty and lifelong imprisonment**

1. Extradition is not permitted for criminal offences which under the law of the requesting state are punishable by the death penalty, unless the requesting state gives assurances which are considered sufficient that the death penalty will not be imposed or carried out.

2. Extradition may not be permitted if the offence upon which the request is based is, under the law of the requesting State, punishable by life imprisonment or other custodial sanction for life, or if the person sought was sentenced to such a punishment and there is no review of the punishment or sanction either upon request or *proprio motu* after a period of no longer than twenty (20) years.

**Article 17**  
**Non-discrimination clause and human rights standards**

1. Extradition shall not be permitted if there are reasonable grounds to believe that the request for extradition has been made for the purpose of prosecuting or punishing the person because of his/her race, religion, gender, nationality, political opinions, ethnicity, language, disability, sexual orientation, association in any social group, or if the person's position in society may be prejudiced for any of these reasons.

2. Extradition shall not be permitted if there are reasonable grounds to believe that the person sought for extradition may be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.

3. Extradition shall not be permitted if there are reasons to believe that the person will not be provided with the minimum guarantees for a fair trial as provided for by the Constitution of the Republic of Kosovo, in the requesting state.

4. Extradition sought for the enforcement of a sentence imposed by a judgment rendered in absentia shall be permitted only if the proceedings against the person respected the recognized minimum rights of defence of any person accused of committing a criminal offence. Extradition may also be permitted if the requesting state gives assurances considered sufficient to guarantee that the person sought has the right to a retrial in order to ensure the minimum rights of defence.

5. Extradition shall not be permitted if there are doubts that the person will be or has been tried or punished in the requesting state by an extraordinary or temporary court, unless the requesting state gives assurances considered sufficient to guarantee that the trial or a retrial will be carried out by a regular court in compliance with the law.

6. Extradition shall not be permitted for any other grounded reason which would account for a violation of the international law or other human rights standards.

**Article 18**  
**Request for extradition**

1. The procedure for extradition is initiated by a written request addressed to the Ministry.

2. The request for extradition shall contain the criminal offence for which extradition is requested and shall be accompanied by the following documents:

2.1. general information of the person sought, together with other information that would help in determining a person's identity, nationality and location;

2.2. original or certified copy of the arrest warrant issued by competent authorities of requesting state or, if the person is sentenced for any offence, the original judgment or the certified copy of the judgment or any other document which indicates the imposed sentence, the fact that the sentence is executable and the duration of the remaining sentence to be served. These documents should contain the time and place where the criminal offence was committed, the role of the person in the commission of the criminal offence, and the legal classification of the offence. If the documents do not contain such information, the request should be accompanied by a declaration providing the information under this paragraph;

2.3. an extract of criminal law of the requesting state applicable to the matter;

2.4. if the person sought was convicted in absentia, a statement should be provided confirming that the person was summoned or otherwise informed personally via an authorised representative according to the law of the requesting state of the time and place of the proceedings which resulted in the judgment rendered in absentia, or that the person has indicated to a competent authority that he or she does not contest the case or a statement indicating the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence.

#### **Article 19 Actions of the Ministry**

1. If after reviewing the request for extradition, the Ministry concludes that the information and documents provided are not sufficient, it may ask the requesting state to complete the request.

2. If the Ministry considers that the request meets the formal requirements, it shall pass the request to the competent Basic Prosecution Office.

3. The Ministry may request information regarding the progress of the extradition procedure from the national judicial authority at any time.

#### **Article 20 The role of the Basic Prosecution Office**

1. The Basic Prosecution Office in the territory of which the person sought is believed to reside or believed to be located is competent to deal with the request for extradition. If the location of the person sought is unknown, the extradition request shall be sent to the Basic Prosecution Office in Prishtina.

2. The Basic Prosecution Office shall immediately take action to identify and determine the location of the person sought and inform the person of the request submitted for his or her extradition.

3. The Basic Prosecution Office shall without delay and no later than three (3) days from the moment the person is identified and located submit the request for extradition to the Basic Court of the territory in which the competent Basic Prosecution Office, as established in paragraph 1. of this Article, is located.

#### **Article 21 Determining measures to ensure the presence of the person at the extradition procedure**

1. In order to ensure the presence of the person sought during the extradition procedure, the Basic Prosecution Office shall act according to the provisions of the Criminal Procedure Code.

2. The competent pre-trial judge of the Basic Court identified pursuant to Article 20 paragraph 3. of this Law shall immediately release the person if:

2.1. one of the situations mentioned under Article 6 paragraph 2. of this Law exists and the person states his or her unwillingness to be extradited;

2.2. the person is not the same as the one identified in the request for extradition or in any of the documents mentioned under Article 18 paragraph 2. of this law;

2.3. the arrest warrant or the document which lead to the person's arrest has been cancelled.

3. The Basic Prosecution Office shall notify the Ministry of any decision taken by the court under this Article.

## **Article 22**

### **Provisional arrest pending receipt of a request for extradition**

1. Even before the receipt of a request for extradition, a person sought may be arrested and detained for a period of a maximum of forty (40) days, if the requesting states submits to the Ministry a request for provisional arrest, which shall indicate that the documents referred to in Article 18 paragraph 2. exist and that a request for extradition will be submitted in due time. Requests for provisional arrest may be sent by electronic means.

2. INTERPOL notifications seeking arrest of a person with a view to extradition, as well as European Arrest Warrants have the same legal force as requests for provisional arrest.

3. Based on a request for provisional arrest, the state prosecutor and the police are entitled to arrest the person sought. The measure shall be confirmed by the competent pre-trial judge within forty eight (48) hours from the arrest, taking into account the provisions of Article 21 paragraph 2. of this Law. The pre-trial judge ex officio shall release the person if the request for extradition is not received by the court within forty (40) days from the day of the arrest.

4. The release does not exclude the possibility of re-arrest and extradition if a request for extradition is received subsequently.

5. The Criminal Procedure Code shall apply unless otherwise provided for by this Law.

## **Article 23**

### **Judicial procedure on extradition**

1. The permissibility of a request for extradition shall be reviewed by a panel of three judges of the competent Basic Court.

2. If several requests for extradition have been submitted by different states with respect to the same person, the proceedings shall be joined. If the proceedings are pending with different courts, the court which first initiated proceedings shall be competent.

3. The court may allow a representative of the requesting state to be present at the proceedings.

4. Within three (3) days from the date of receipt of the request for extradition, the court shall hold a hearing in the presence of the state prosecutor, the person sought, and his or her defence counsel. If the person sought does not have a defence counsel, the presiding judge of the panel shall appoint one ex officio.

5. At the beginning of the hearing, the presiding judge of the panel shall inform the person about his or her rights according to the Constitution of the Republic of Kosovo and the Criminal Procedure Code. The

court shall question the defendant with respect to his or her personal circumstances and, in particular, with regard to his or her citizenship.

6. The court shall ask the person whether he or she consents to the extradition and shall inform him or her of the legal consequences of a simplified extradition procedure. If the person agrees, the court shall proceed in accordance with Article 24 of this law.

7. If the person does not consent to the simplified extradition and objects to the extradition, the court shall adjourn the hearing and give a forty eight (48) hours deadline for the person sought to indicate the grounds on which he or she opposes the extradition. The opposition can only be based on the fact that the person is not the person sought by the requesting state or that the conditions permitting extradition are not met.

8. The court may set another deadline of forty eight (48) hours for the prosecutor to be able to respond to the opposition made by the person sought.

9. If it is concluded that the information provided by the requesting state is not sufficient to make a decision, the court may submit a request for additional information to the Ministry, which shall address the request to the requesting state if necessary. The court may set a time-limit for the receipt thereof.

10. The court may examine any other evidence it deems relevant.

11. In cases where the person whose extradition is requested is subject to ongoing criminal proceedings in the Republic of Kosovo, the court shall state this fact in the minutes of the hearing and inform the Ministry. In such cases, the court shall ensure the possibility to freeze any property of the person needed to remunerate damaged parties in the criminal proceedings in the Republic of Kosovo.

#### **Article 24** **Simplified extradition procedure**

1. The Ministry may agree that a person be extradited through the simplified extradition procedure provided that the person consents to it and that the requesting state accepts extradition through the simplified procedure.

2. The consent provided for in paragraph 1. of this Article shall be given before the competent court and shall be recorded in accordance with provisions of Criminal Procedure Code, ensuring that the consent has been given on a voluntary basis and that the person is aware of the consequences that may derive. A given consent cannot be withdrawn.

3. The person may also declare that he or she renounces the benefit of the rule or speciality provided in Article 30 paragraph 3 of this law.

4. If the court finds that the simplified extradition is admissible, it shall note the finding in a ruling and decide on measures to ensure the presence of the person until surrender. The decision cannot be appealed.

5. When the person sought is subject of a request for provisional arrest in accordance with Article 22 of this Law, the simplified extradition shall not require the submission of a request for extradition and supporting documents in accordance with Article 18 paragraph 2. of this Law. The following information, to be provided by the requesting state, shall be sufficient for the purpose of a simplified extradition:

5.1. the identity of the person sought, including his or her nationality when available;

5.2 the authority requesting the arrest;



5.3 information regarding the existence of an arrest warrant, other document having the same legal effect, or of an enforceable judgment;

5.4 the nature and legal description of the offence, the maximum punishment which may be imposed or the punishment imposed in the final judgment, including whether any part of the sentence has already been enforced;

5.5 information concerning statute of limitations

5.6 a description of the circumstances in which the offence was committed, including the time, place, and degree of involvement of the person sought;

5.7 in cases where extradition is requested for the enforcement of a final judgment, if the judgment was rendered in absentia, then the provisions of Article 18 paragraph 2.4. of this law apply mutatis mutandis.

6. The court shall, without any delay, inform the Ministry of the decision issued in accordance with this Article.

7. Extradition through the simplified procedure shall have the same legal effects and consequences as extradition permitted through regular procedure.

#### **Article 25**

##### **Handover of items in the extradition procedure**

1. Upon request of requesting state and in accordance with national law, the competent court shall confiscate and submit items that may be used as evidence, or that may have been obtained as a result of the criminal offence or have been used in the commission of the criminal offence.

2. The items provided for in paragraph 1. of this Article shall be submitted to the requesting state if the request for extradition was granted, even if the extradition was not carried out as a result of the death or escape of the person sought.

3. If the items and materials provided for in paragraph 1. of this Article are the subject of sequestration or confiscation in the Republic of Kosovo in relation to any ongoing criminal proceedings, they may be temporarily retained or handed over on the condition that they be returned to the Republic of Kosovo.

4. Where rights have been acquired by the Republic of Kosovo or by third parties in the Republic of Kosovo over the items and materials referred to in paragraph 1. of this Article, they should be returned without charge as soon as possible after the conclusion of the trial.

#### **Article 26**

##### **Decision on the permissibility of extradition**

1. If the panel of three judges of the competent Basic Court finds that the legal requirements for extradition are met, it shall issue a decision on the permissibility of the extradition.

2. The person sought may appeal the decision to the Court of Appeals within three (3) days from the service of the decision.

3. The appeal stays enforcement of the decision.

#### **Article 27**

##### **Decision on the non-permissibility of the extradition**

1. If the panel of three (3) judges of the competent Basic Court concludes that the conditions for extradition are not met, it shall render a decision finding that the request for extradition is not permissible.
2. The Basic Prosecution Office may appeal this decision to the Court of Appeals within three (3) days from the date of the service of the decision.
3. The panel of three (3) judges, upon request of the Basic Prosecution Office, may decide to keep a person, already in detention, detained until the decision on extradition becomes final.

**Article 28**  
**Decision on appeal**

1. The appeal shall be decided upon by a panel of three judges at the Court of Appeals in accordance with the provisions of the Criminal Procedure Code.
2. If the Court of Appeals finds that the extradition is permissible, it shall also decide on measures to ensure the presence of the person until surrender.

**Article 29**  
**Submission of the decision to the Ministry**

After the court decision on extradition becomes final, the competent Basic Court shall submit it and any other related decision taken by the courts, to the Ministry.

**Article 30**  
**Decision of the Minister**

1. If the court decided in favor of the extradition, the Minister may either grant or refuse the extradition.
2. The Minister may postpone the extradition if criminal proceedings against the person are taking place before a national authority or if the person is serving a sentence in the Republic of Kosovo. The Minister may instead decide to temporarily surrender the person or to surrender him or her under certain conditions to be determined by mutual agreement with the requesting state.
3. The decision of the Minister to grant extradition may establish the following:
  - 3.1. the person to be extradited shall not be prosecuted or punished for other criminal offences committed prior to the extradition, other than those for which the extradition was granted;
  - 3.2. the person shall not be punished with a more severe sentence than the one already imposed;
  - 3.3. the person cannot be surrendered or extradited to a third state without the permission of the Minister.
4. The Minister may place additional conditions on the extradition.
5. If the court decided that the extradition was not permissible, the Minister shall issue a decision refusing the extradition.
6. The decision of the Minister is final and an administrative conflict may be initiated against it.

**Article 31**  
**Criminal prosecution in case of refusal of extradition**

If the extradition has been refused, the competent Prosecution Office, may initiate criminal proceedings against the person in the Republic of Kosovo.

### **Article 32**

#### **Communication of decisions**

The Ministry shall immediately notify the requesting State of the decision on extradition through the regular channels of communication. Notification of the decision to grant extradition shall also be sent to the Ministry of Internal Affairs.

### **Article 33**

#### **Surrender of the person sought**

1. The Ministry and the requesting state shall agree on the date and place of surrender. The requesting state shall take over the person within thirty (30) days from the day when the decision granting extradition was received. Based on a supported request of the requesting state, the Ministry may extend this deadline for another fifteen (15) days.

2. At the agreed time and place of the surrender, the police shall hand over the person, together with any items and materials identified in Article 25 of this law, to the authorities indicated by the requesting state.

3. If the requesting state does not take custody of the person in accordance with paragraph 2. of this Article, the person shall be immediately released and the Minister may refuse a repeated request for extradition in respect to the same criminal offence.

### **Article 34**

#### **Concurrent requests for extradition**

1. When several states request the extradition of the same person, the Minister shall decide the state to which the person sought should be extradited.

2. When deciding according to paragraph 1. of this Article, the Minister shall take the following criteria into consideration:

2.1 the place where the criminal offence was committed;

2.2 the severity of the criminal offence;

2.3 the respective dates of the requests for extradition;

2.4 whether the request for extradition was submitted for the purpose of prosecution or for enforcement of a sentence;

2.5 the nationality of the person sought.

### **Article 35**

#### **Repeated request for extradition**

If a request for extradition is refused, a new request for extradition against the same person and for the same offence may be reviewed if supported by new elements which were not examined under the previous request.

### **Article 36**

#### **Transit through the territory of the Republic of Kosovo**

1. The Ministry may grant permission for a person being extradited by one state to another to transit through the territory of the Republic of Kosovo upon the request of the relevant state.
2. The transit of persons for the purpose of extradition for an offence foreseen by Articles 15, 16, or which would be in violation of paragraph 2. of Article 55 of this Law is not permitted.
3. The Ministry may refuse the request for transit:
  - 3.1. if the extradited person is a citizen of the Republic of Kosovo;
  - 3.2. if the offence for which the person is being extradited for is not considered a criminal offence under national law.
4. A person in transit may be held in detention in the territory of the Republic of Kosovo only for the time required for the transit.
5. If a person is transported by air and no landing is foreseen in the territory of the Republic of Kosovo, the permission referred to in paragraph 1 is not necessary. The Ministry, however, shall be notified about the transit. In case of unexpected landing, this notification will be treated as a request for transit. The notification must contain the name and nationality of the person extradited, the state to which the person is being extradited and the time of the air transit.

## **SUB CHAPTER II EXTRADITION FROM ANOTHER STATE TO KOSOVO**

### **Article 37 Request for extradition**

1. Where a person is subject to an order, issued by national judicial authorities, of arrest, detention on remand, or subject to a sentence imposed by a final judgment, the Republic of Kosovo may request the extradition of that person from the state where the person is or believed to be located.
2. Before the filing of the indictment, the competent state prosecutor may request that the Ministry request extradition from another state. After the filing of the indictment, the competent court may request that the Ministry request extradition from another state.
3. The request for extradition shall be submitted to the requested state through the channels determined in Article 4 of this Law, together with the documents and information provided for by Article 18 paragraph 2 of this Law.
4. The request for extradition shall also include a request for all relevant information, including all statements given by the person whose extradition is requested, and all items identified in Article 22 of this law, if available.

### **Article 38 Request for provisional arrest with a view to extradition**

1. The competent judicial authority in charge of the case may request that the Ministry submit a request to the state where the person sought has been located for the provisional arrest of the person with a view to extradition. In urgent cases, the Ministry may submit such requests directly.
2. The request for provisional arrest with a view to extradition shall state that the documents provided for by Article 18 paragraph 2. of this Law exist and indicate that the extradition will be requested through regular channels in due time.

**Article 39**  
**Rule of specialty and other conditions**

1. A person extradited to the Republic of Kosovo shall not be prosecuted or sentenced for any criminal offence committed prior to his or her surrender other than that for which the extradition was granted, except in the following cases:

1.1. when the requested state consents. A request for consent may be sent by the Ministry and shall be accompanied by the documents mentioned in Article 18 of this law and a legal record of any statement made by the extradited person with respect to the offence concerned;

1.2. when the person had an opportunity to leave the territory of the Republic of Kosovo, but had not done so within forty five (45) days of his or her final discharge, or has returned to the territory of the Republic of Kosovo after leaving it.

2. When the extradition is granted subject to certain conditions regarding the type and severity of the punishment, the court shall be bound by these conditions in imposing the punishment. In the case of enforcement of an already imposed punishment, the court which adjudicated lastly shall modify the judgment and bring the punishment imposed in line with the conditions of the extradition.

3. If the extradited person was detained in the requested state for the criminal offence for which he or she was extradited, the time spent in detention shall be deducted from the punishment.

4. National authorities shall respect any other conditions set out by the requested state.

**Article 40**  
**Procedure following arrest based on an international wanted notice**

If a person sought by national judicial authorities is arrested in another state based on an international wanted notice, the Ministry shall as soon as possible submit to that state a request for the extradition of the person to the Republic of Kosovo.

**CHAPTER III**  
**TRANSFER OF CRIMINAL PROCEEDINGS**

**SUB-CHAPTER I**  
**TRANSFER OF CRIMINAL PROCEEDINGS FROM OTHER STATES**  
**TO THE REPUBLIC OF KOSOVO**

**Article 41**  
**Principle**

Criminal proceedings initiated or expected to be initiated in another state may be transferred to the Republic of Kosovo at the request of that state.

**Article 42**  
**Conditions for accepting transfer of criminal proceedings**

1. Transfer of criminal proceedings may be accepted by the Republic of Kosovo only if the offence subject to the request for transfer is considered a criminal offence in the Republic of Kosovo.

2. Transfer of criminal proceedings may be accepted in one of the following cases:

2.1. the suspected person is a permanent resident of the Republic of Kosovo;

2.2. the person is citizen of the Republic of Kosovo, or the Republic of Kosovo is the state of his or her origin;

2.3. the person is serving or should serve a punishment which includes deprivation of liberty in the Republic of Kosovo;

2.4. if proceedings for the same or other offences are being conducted against the person in the Republic of Kosovo;

2.5 if it is considered that the transfer of proceedings is warranted in the interest of arriving at the truth and in particular if the most important items of evidence are located in the Republic of Kosovo;

2.6 if it is considered that enforcement in the Republic of Kosovo of a sentence if one were passed is likely to improve the prospects for the social rehabilitation of the person.

#### **Article 43** **Refusal of transfer of criminal proceedings**

1. Transfer of criminal proceedings may be refused if:

1.1. the offence upon which the request for transfer is based is considered political or military in nature.

1.2. the judicial authorities of the requesting state are not competent to prosecute the offence.

2. Transfer of criminal proceedings shall not be accepted if there are circumstances that do not allow the initiation of criminal proceedings under national law.

#### **Article 44** **Withdrawal of acceptance**

1. Acceptance of a transfer may be withdrawn if:

1.1. it becomes obvious that the presence of the suspected person in court in the Republic of Kosovo cannot be ensured or that the sentence which may be imposed cannot be enforced in the Republic of Kosovo;

1.2. one of the reasons for refusal provided for by Article 43 of this law becomes evident before the case is brought to the court;

1.3. in other cases if the requesting state agrees.

#### **Article 45** **Request for transfer of criminal proceedings**

1. A request for transfer of criminal proceedings shall be submitted in writing to the Ministry and shall be accompanied by original documents or certified copies of the criminal file along with other necessary records.

2. The requesting state shall notify the Ministry about any procedural action or measure pertaining to the criminal proceedings which were taken after the submission of the request for transfer. This communication should be accompanied by related documents.

**Article 46**  
**Action on request**

1. After receiving a request for transfer of criminal proceedings, the Ministry shall send it to the Prosecution Office competent according to the Criminal Procedure Code in order to decide whether or not to accept the transfer.

2. The decision mentioned in paragraph 1. of this Article shall be immediately sent to the Ministry for further transmission to the requesting state.

**Article 47**  
**Notification of the decision**

1. The Ministry shall notify the requesting state of the decision on whether or not to accept the transfer of criminal proceedings.

2. The Ministry shall also notify the requesting state of any final judgment rendered as a result of the transfer of criminal proceedings. The requesting state shall be provided with a certified copy of any such judgment.

**Article 48**  
**Validity of actions taken in the requesting state**

1. Any act pertaining to the transferred proceedings taken in the requesting state in accordance with its law and regulations shall have the same validity in the Republic of Kosovo as if it had been taken by national authorities, provided that the act is in compliance with national law.

2. Any act which interrupts the statute of limitations period and which has been carried out in a valid manner in the requesting state shall have the same effects in the Republic of Kosovo.

**Article 49**  
**Proceedings initiated by criminal complaint**

1. Where a criminal complaint is necessary in both the Republic of Kosovo and in the requesting state in order to initiate criminal proceedings, and such a complaint was filed in the requesting state, then the complaint shall have the same legal effect as a complaint having been filed in the Republic of Kosovo.

2. In cases where the criminal complaint would be necessary only in the Republic of Kosovo, the transfer of criminal proceedings may be accepted in absence of a complaint, if the person who is entitled to file the criminal complaint did not object within one month from the date when he or she was notified about his or her right to make objections.

**SUB-CHAPTER II**  
**TRANSFER OF PROCEEDINGS FROM THE REPUBLIC OF KOSOVO TO ANOTHER STATE**

**Article 50**  
**Principle**

If it is believed that a person has committed a criminal offence prescribed by the national law, national judicial authorities, in accordance with the provisions of this Law, may request that another state take over the criminal proceedings, under the conditions set out in this Chapter.

#### **Article 51**

#### **Temporary suspension of criminal proceedings in the Republic of Kosovo**

1. National judicial authorities may temporarily suspend criminal proceedings against a person only if the conditions provided by this Law are met.
2. Any decision for suspension of criminal proceedings should be considered as temporary until the requested state notifies the Ministry of its decision to accept the transfer of criminal proceedings.

#### **Article 52**

#### **Conditions for the transfer of criminal proceedings**

1. Criminal proceedings may be transferred if:
  - 1.1. the suspected person is a national of the requested state or the requested state is his or her state of origin;
  - 1.2. the suspected person is serving or has to serve a sentence to imprisonment in the requested state;
  - 1.3. the requested state has initiated criminal proceedings for the same offence or other offences against the suspect;
  - 1.4. it is considered that the transfer of proceedings is justified in the interest of arriving at the truth and in particular if the most important items of evidence are located in the requested state;
  - 1.5. it is considered that the enforcement of a sentence, if one were passed, in the requested state is likely to improve the prospects for the social rehabilitation of the person sentenced;
  - 1.6. the presence of the person at trial in the Republic of Kosovo cannot be ensured but presence can be ensured in the requested state;
  - 1.7. enforcement of a sentence, if one were passed, would not be possible even if recourse to extradition was available, or a request for extradition has been refused.

#### **Article 53**

#### **Authority to submit a request for transfer**

1. Before the filing of the indictment, the request for transfer of criminal proceedings shall be submitted by the competent state prosecutor. After the indictment is filed, the request shall be submitted by the competent court.
2. The request for transfer of proceedings together with the entire case file shall be sent to the Ministry.

#### **Article 54**

#### **Effects of the transfer**

1. When a request for transfer has been submitted to another state, national judicial authorities can no longer prosecute the person for the offence subject to that request or enforce a judgment previously rendered in the Republic of Kosovo against the person for that offence. However, until the decision of the



requested state on whether to accept or not the transfer is received, national judicial authorities retain the right to take necessary steps with respect to prosecution, except for bringing the case to trial.

2. The right of prosecution shall revert to the national judicial authorities if:

2.1. the requested state informs the Ministry of a decision not to take action on the request;

2.2. the requested state informs the Ministry of a decision to refuse acceptance of the request;

2.3. the requested State informs the Ministry of a decision to withdraw acceptance of the request;

2.4. the requested State informs the Ministry of a decision not to institute proceedings or discontinue them;

2.5. the national authority which made the request withdraws it before the requested state has informed the Ministry of a decision to take action on the request.

3. Any final judgment rendered by the requested state shall produce the same effects as if it were rendered in the Republic of Kosovo.

## **CHAPTER IV TRANSFER OF SENTENCED PERSONS**

### **SUB-CHAPTER I**

#### **TRANSFER OF SENTENCED PERSONS FROM THE REPUBLIC OF KOSOVO TO OTHER STATES**

##### **Article 55 Principle**

A person convicted and sentenced to imprisonment in the Republic of Kosovo may be transferred to another state to serve the sentence or the remainder of the sentence there.

##### **Article 56 Conditions for transfer**

1. Pursuant to this Law, a sentenced person may be transferred only if the following conditions are met:

1.1. the person is a national of the administering state;

1.2. the judgment is final;

1.3. at the time when the request for transfer is received, he or she has at least six (6) months of sentence to serve or the sentence is undetermined;

1.4. the sentenced person consents to the transfer or his or her legal representative consents to the transfer in view of the person's age, physical, or mental condition

1.5. the administering state agrees to the transfer.

2. The transfer of a sentenced person is not permitted if:

2.1. there are doubts that the person may suffer torture or other cruel, inhuman, degrading treatment or punishment;

- 2.2. there are serious reasons to believe that, if transferred, the person would be prosecuted or punished because of his or her race, religion, citizenship, association with a certain social group, political beliefs, or that his or her situation would be made more difficult for one of these reasons.
3. In exceptional cases, the Ministry may agree to the transfer even if the part of the sentence left to be served is less than the period provided for in paragraph 1.3. of this Article.
4. Upon acceptance of a request to transfer, the Ministry may determine the following conditions:
  - 4.1. that the person to be transferred shall not be prosecuted or punished for a criminal offence committed before the transfer;
  - 4.2. that the person should not be punished with a more severe sentence than the one already imposed;
  - 4.3. that the person cannot be surrendered or extradited to a third state without permission of the Ministry.
5. The Ministry may determine other conditions for the transfer, if necessary.

#### **Article 57** **Obligation to provide information**

1. Foreign nationals sentenced by final judgment in the Republic of Kosovo, shall be informed of the provisions of this Chapter.
2. If a person sentenced by final judgment has expressed an interest to be transferred in accordance with this Law, the Ministry may inform the state concerned.
3. The information shall contain:
  - 3.1. the name, date, and place of birth of the sentenced person;
  - 3.2. the address of the sentenced person, if any, in the territory of the administering state;
  - 3.3. a description of the facts upon which the sentence was based;
  - 3.4. the nature and duration of the sentence and the date of commencement of the enforcement of the sentence.
4. If a sentenced person has expressed interest to be transferred to the administering state, the Ministry shall provide the information identified in paragraph 3. of this Article to the administering state, upon its request.
5. The sentenced person shall be informed in writing, in a language he or she understands, of any action taken by the Republic of Kosovo or by the administering state in accordance with paragraph 4. of this Article and about any other action of any state pertaining to the request for transfer.

#### **Article 58** **Consent and verification**

The correctional authority or any other authorised official shall ensure that the person giving consent has done so on a voluntary basis and is fully aware of the legal consequences.

#### **Article 59** **Request for transfer and supporting documents**

1. The request of the Ministry to transfer a sentenced person to another state shall be submitted in writing.
2. The request shall be accompanied by the following documents:
  - 2.1. original or certified copy of the judgment and extract of the relevant law;
  - 2.2. a statement from the correctional institution indicating the part of the sentence already served, including the time spent in pre-trial detention and any other information relevant to the enforcement of the sentence;
  - 2.3. the written statement of consent to transfer given by the sentenced person;
  - 2.4. where appropriate, any medical or social reports on the sentenced person containing information about treatments and any recommendation for future treatment in the administering state.
3. Before submitting a request for transfer, the Ministry may request from the administering state to provide:
  - 3.1. a document or a statement indicating that the sentenced person is a national of that state;
  - 3.2 a statement on the manner of enforcement of the sentence, whether by continuation or by conversion of the sentence.

#### **Article 60**

##### **Transfer of sentenced persons subject to deportation or expulsion orders**

1. The Ministry may grant the transfer of a person without his or her consent if an order for deportation or expulsion or any other measure which does not permit the person to stay in the territory of the Republic of Kosovo after release was issued by national authorities.
2. The Ministry may grant the transfer on the basis of paragraph 1. of this Article only after considering the opinion of the sentenced person.
3. The Ministry shall provide the administering state with the following documents:
  - 3.1. a statement which contains the opinion of the sentenced person about his or her transfer; and
  - 3.2. a certified copy of the deportation or expulsion order, or any other order which does not permit the person to stay in the Republic of Kosovo after release.
4. Where a person is transferred without his or her consent under this Article, the Ministry, upon the request of the administering state, may authorise that state to prosecute, sentence or detain the person for criminal offences committed prior to the transfer. Such authorisation may only be given when the offence for which it is requested would itself be subject to extradition under the national law Kosovo or when extradition would be excluded only by reason of the amount of punishment.

#### **Article 61**

##### **Effects of the transfer**

1. The transfer of the sentenced person to the authorities of the administering state suspends the enforcement of the sentence in the Republic of Kosovo.

2. The authorities of the Republic of Kosovo may no longer enforce the sentence if the sentence is considered completed by the administering state.

## **SUB-CHAPTER II TRANSFER OF SENTENCED PERSONS FROM OTHER STATES TO THE REPUBLIC OF KOSOVO**

### **Article 62 Purpose and conditions for transfer**

1. The Ministry may grant the transfer of a person sentenced by another state to a correctional institution in the Republic of Kosovo in order to serve his or her sentence or the remaining sentence, provided that the criminal offence for which the person was sentenced in the sentencing state is a criminal offence under national law.

2. Transfer may be granted upon receipt of written request submitted to the Ministry by the sentencing state or by the sentenced person or by someone authorised on his or her behalf if the sentencing state consents to the transfer.

3. Articles 56, 59, and 60 of this Law apply mutatis mutandis.

### **Article 63 The enforcement procedure**

1. Persons transferred under this Law shall be subject to one of the following procedures:

1.1. sentences shall be continued when the sentencing state is a member state of the European Union or a state with which the Republic of Kosovo has an agreement to that effect.

1.2. sentences shall be converted when the sentencing state is not one mentioned in paragraph 1.1 of this Article.

2. The Basic Court of Pristina is competent to decide on the enforcement procedure mentioned in paragraph 1. of this Article. The decision cannot be appealed.

### **Article 64 Continuation of the sentence**

1. In the cases where paragraph 1.1 of Article 63 of this law is applicable, the competent court shall issue a decision to continue the enforcement of the sentence imposed in the sentencing state. The court is obliged to adhere to the legal nature and duration of the sentence imposed in the sentencing state.

2. In the event that the sentence imposed in the sentencing state by its nature or duration is incompatible with national law, the sentence shall be converted according to Article 65 of this law.

### **Article 65 Conversion of the sentence**

1. In the cases referred to in paragraph 1.2 of Article 63 of this law, the competent court shall issue a decision imposing a sentence in accordance with national law.

2. When converting the sentence, the court shall:

- 2.1. be bound by the findings presented in the judgment rendered by the sentencing state;
  - 2.2. not convert a punishment of imprisonment into a punishment of a fine;
  - 2.3 deduct the period of the sentence served by the sentenced person in the sentencing state from the sentence imposed; and
  - 2.4. not aggravate the criminal status of the sentenced person and not be bound by any minimum sanction which the law of the sentencing state may provide for the offence committed.
3. The conversion procedure shall take place before the sentenced person is transferred.

**Article 66**  
**Persons having fled from the sentencing state**

1. When a citizen of the Republic of Kosovo who is subject to a sentence imposed by a final judgment in another state attempts to avoid enforcement of the sentence in that state by fleeing to the Republic of Kosovo, upon the request of the competent authority of that state, the Ministry may agree to take over the enforcement of the sentence in the Republic of Kosovo.
2. Upon the request of the sentencing state, before receiving the documents supporting the request or before a decision on the request is made, national judicial authorities may arrest the person or may take other measures to ensure his or her presence in the territory of the Republic of Kosovo pending a decision on the request. The request for temporary arrest should contain information provided for in paragraph 3. of Article 60 of this Law. The criminal status of the sentenced person shall not be aggravated as a result of any time spent under arrest pursuant to this paragraph.
3. The consent of the sentenced person is not required in order to transfer the enforcement of the sentence.

**Article 67**  
**Guarantees for sentenced persons transferred without their consent**

1. Any person transferred to the Republic of Kosovo without his or her consent under Article 60 of this Law shall not be prosecuted, sentenced, or detained for any offence committed prior to his or her transfer other than that for which the sentence to be enforced was imposed, nor shall he or she for any other reason be restricted in his or her personal freedom, except when the sentencing state so authorises. A request for authorisation shall be submitted, accompanied by all relevant documents and a legal record of any statement made by the convicted person.
2. Notwithstanding the provision of paragraph 1. of this Article, national judicial authorities may take action to prevent the running of the statute of limitation.

**Article 68**  
**Termination of enforcement of the sentence**

Enforcement of the sentence shall be terminated if the Ministry is informed by the sentencing state that the competent authorities of the sentencing state had issued a decision or any other measure by which the sentence can no longer be enforced.

**Article 69**  
**Information on enforcement of the sentence**

1. The Ministry shall inform the sentencing state about the enforcement of the sentence:

- 1.1. when the enforcement of the sentence is considered to be terminated;
- 1.2. if the sentenced person has escaped from custody before the completion of the sentence.

**Article 70**  
**Permission for transit of a sentenced person**

1. The Ministry may grant permission for a sentenced person being transferred by one state to another to transit through the territory of the Republic of Kosovo upon the request of either state.
2. The transit of a person to serve a sentence for an offence provided for by Article 15, 16 paragraph 1., or which would be in violation of paragraph 2. of Article 55 of this law, is not permitted.
3. The Ministry may refuse a request for transit if:
  - 3.1. the sentenced person is a citizen of the Republic of Kosovo;
  - 3.2. the offence for which the sentenced person is convicted is not considered a criminal offence by national law.
4. A sentenced person may be detained in the territory of the Republic of Kosovo only for the time required for transit.
5. If a person is transported by air and no landing is foreseen in the territory of the Republic of Kosovo, the permission referred to in paragraph 1 is not necessary. The Ministry, however, shall be notified about the transit. In case of unexpected landing, this notification will be treated as a request for transit. The notification must contain the name and nationality of the person transferred, the state to which the person is being transferred and the time of the air transit.

**CHAPTER V**  
**RECOGNITION AND ENFORCEMENT OF JUDGMENTS**

**SUB-CHAPTER I**  
**RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS IN THE REPUBLIC OF KOSOVO**

**Article 71**  
**General principles**

1. Final judgments issued by courts of other states against citizens or permanent residents of the Republic of Kosovo may be recognized and enforced in the Republic of Kosovo under the conditions provided in this Chapter, if the judgment refers to one of the types of punishment foreseen by the national law.
2. The procedure for recognition and enforcement may only be initiated on the basis of a written request received by the Ministry. The request is to be accompanied by the original or by a certified copy of the judgment to be enforced and any other relevant documents.
3. After reviewing the formal requirements of the request, the Ministry shall transmit it, together with the supporting documents received, to the competent court. The Basic Court in the territory where the sentenced person resides or is located shall be competent to decide on the request for recognition and

enforcement. If the residence or location of the person cannot be determined, the Basic Court of Prishtina shall be competent.

## **Article 72**

### **Conditions for recognition and enforcement**

1. The court shall only refuse the recognition and enforcement of a foreign judgment in one of the following situations:

1.1. the enforcement would be contrary to the fundamental principles of the legal system of the Republic of Kosovo;

1.2. the offence for which the sentence was rendered is of a political nature or military one;

1.3. there are substantial grounds to believe that the judgment was rendered on considerations of race, religion, nationality or political opinion;

1.4. the offence on which the foreign judgment is based is already subject of a final judgment or proceedings in the Republic of; Kosovo;

1.5. under national law, the enforcement of the sanction is statute barred or has been pardoned;

1.6. the judgment was rendered in absentia, unless the requesting state provides supporting information that, according to its law, the person was summoned or otherwise informed personally via a competent representative, of the time and place of the proceedings which resulted in the judgment rendered in absentia, or that the person has indicated to a competent authority of the requesting state that he or she does not contest the case, or did not request a retrial or appealed.

2. If the requesting state fails to provide the information provided by paragraph 1.6 of this Article, judgments rendered in absentia may be recognised and enforced if the person has been provided with the possibility to make an opposition to the judgment and the person did not lodge an opposition within twenty (20) days.

3. In all other cases, the foreign judgment shall be recognised and declared enforceable by the competent court provided that the criminal offence for which the judgment was rendered would be considered a criminal offence if committed in the territory of the Republic of Kosovo and the person would be considered criminally liable.

## **Article 73**

### **Judicial proceedings**

1. The court in a panel of three judges shall render a judgment regarding the recognition of the foreign judgment and the enforcement of the sentence imposed.

2. Before rendering the judgment, the court shall hear the opinion of the person and that of the competent state prosecutor. The court shall be bound by the findings as to the facts as stated in the foreign judgment.

3. In the enacting clause of the judgment, the court shall state in full the enacting clause of the judgment of the foreign court and the name of the foreign court.

4. The court shall impose a sanction in accordance with national law. In the reasoning of the judgment, the court shall state the reasons upon which the sanction is imposed. If the sentence is incompatible with the national law, the court may adapt the sentence only where that sentence exceeds the maximum punishment provided for similar offences under national law. If the sanction imposed by the foreign court

is less than the minimum which may be imposed under the national law, the court shall not be bound by that minimum and shall impose a sanction corresponding to the sanction imposed in the requesting state.

5. Any part of the sanction imposed by the foreign court and any period of pre-trial detention served by the person in the requesting state or in the Republic of Kosovo shall be deducted in full.

6. An appeal against the national judgment may be filed by the state prosecutor, the sentenced person, and his or her defence counsel in accordance with the provisions of the Criminal Procedure Code.

7. A person for whom a request for recognition and enforcement of judgment has been submitted to the Ministry, may be arrested and placed in detention on remand in accordance with the Criminal Procedure Code.

#### **Article 74**

#### **Enforcement of punishments of fine and confiscation of money**

1. If a request for enforcement of a fine or confiscation of a sum of money has been accepted, the court shall convert the amount into the currency in circulation in the Republic of Kosovo according to the exchange rate recorded by the central bank valid for the day when the judgment was issued. In doing so, the court shall fix the amount of the fine or the sum to be confiscated, which shall not exceed the maximum sum established by the national law for the same criminal offence.

2. When the request for enforcement concerns the confiscation of a particular item, the court may order the confiscation of that item only if the national law permits confiscation for the same criminal offence or if it allows for the imposition of a more severe sanction. If confiscation of a particular item is not possible, the court may instead decide to confiscate the monetary amount equal to the value of that item if the requesting state agrees. In such cases, the rate mentioned in paragraph 1. of this Article shall apply *mutatis mutandis*.

#### **Article 75**

#### **Destination of proceeds of fines and confiscations**

1. Revenues from the collection of fines and confiscations shall be paid to the state budget of the Republic of Kosovo unless otherwise agreed with the requesting state and without prejudicing the rights of third parties.

2. Confiscated property which is of a special interest to the requesting state may be returned to it if it so requires.

#### **Article 76**

#### **Enforcement of accessory punishments**

1. Where the request for enforcement concerns an accessory punishment, such a sentence may be enforced in the Republic of Kosovo only if the national law permits the imposition of such sentence for the same criminal offences.

2. When the court orders enforcement of an accessory punishment, it shall determine the duration of the sentence within limits set forth by national law, without exceeding the limits determined by the sentence imposed by the requesting state.

### **SUB-CHAPTER II**

### **ENFORCEMENT OF NATIONAL JUDGMENTS IN OTHER STATES**

#### **Article 77**

#### **Conditions for the submission of requests for recognition and enforcement**



1. The recognition and enforcement of a final judgment rendered by a court in the Republic of Kosovo in another state may be requested from that state in any of the following cases:

- 1.1. the person sentenced is a national or a permanent resident of the requested state;
- 1.2. the person sentenced is already serving a sentence of imprisonment for another offence in the requested state;
- 1.3. the enforcement of the sanction in the requested state is likely to improve the prospects for the social rehabilitation of the person sentenced;
- 1.4. the extradition of the person to the Republic of Kosovo would not be permissible under the law of the requested state.

2. Recognition and enforcement of a national decision may be requested to another state in any other situation where it is considered that the decision can not be enforced in the Republic of Kosovo.

**Article 78**  
**Submission of requests for recognition and enforcement**

1. Requests for the recognition and enforcement of judgments rendered by national courts shall be submitted to the requested state by the Ministry, upon the request of the court which rendered the judgment.

2. The request shall be made in writing and shall be accompanied by the original or certified copy of the judgment whose enforcement is requested and any other documents necessary under the law of the requested state.

**Article 79**  
**Effects of requests for recognition and enforcement**

1. If the requested state agrees to enforce the judgment in its territory, the authorities of the Republic of Kosovo no longer have the right to enforce the judgment.

2. The right to enforce the judgment shall revert to the Republic of Kosovo if the person evades enforcement of the sentence.

**CHAPTER VI**  
**MUTUAL LEGAL ASSISTANCE**

**Article 80**  
**Principle**

1. Upon the request of a judicial authority of another state, national judicial authorities shall provide assistance to that state for criminal proceedings conducted for offences whose punishment, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting state.

2. Legal assistance within the meaning of paragraph 1 of this Article shall be any type of support given to foreign authorities regardless of whether the foreign proceedings are conducted by a court or by a prosecution office or if the legal assistance is to be provided by a court or by a prosecution office.

3. Legal assistance under this Chapter may also be provided or requested for the taking of provisional measures for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests,

4. National judicial authorities shall give priority to the execution of requests for mutual legal assistance and take into account any procedural deadlines and any other terms indicated by the requesting state.

**Article 81**  
**Extended mutual legal assistance**

Assistance shall also be provided in support of proceedings brought by administrative authorities with regard to acts which are punishable by the national law or by the law of the requesting state for being infringements of laws which could lead to criminal proceedings.

**SUB CHAPTER I**  
**NATIONAL REQUESTS FOR MUTUAL LEGAL ASSISTANCE ADDRESSED TO ANOTHER STATE**

**Article 82**  
**Authority to submit requests for legal assistance**

1. During pre-trial proceedings and until the filing of the indictment, requests for mutual legal assistance shall be submitted by the state prosecutor conducting the proceedings for which the assistance is requested. In cases where the act or measure requested, if it were to be performed in the Republic of Kosovo, would require, pursuant to the Criminal Procedure Code, an order of the court, the request shall be submitted by the court upon the application of the state prosecutor.

2. After the filing of the indictment, requests for legal assistance shall be submitted by the court conducting the proceedings for which the assistance is requested.

3. Requests for mutual legal assistance shall be submitted to the Ministry and the Ministry shall review these requests and transmit them together with any supporting documents to the competent authority of the requested state.

**Article 83**  
**Content of the request**

1. The request for assistance shall be made in writing and shall include the following information:

1.1. the name of the authority conducting the criminal proceedings relating to the request;

1.2. a description of the facts of the case, including the time and place of commission of the criminal offence and any damage caused, as well as the legal classification of the offence;

1.3. extract of applicable legal provisions, including provisions regarding the statute of limitation and those on the sentence which may be imposed;

1.4. the identification of the persons against whom the criminal proceedings for which the assistance is requested are being conducted;

1.5. a description of the requested activities and an explanation of how they link to the facts of the case;

1.6. where applicable, the identification of the time limit within which the request should be executed and justification of the urgency;

- 1.7. where applicable, the identification of the persons to be authorised to be present at the enforcement of the request;
  - 1.8. where applicable, identification of the allowances and reimbursements to which the person who is summoned to appear for the purpose of taking evidence is entitled;
  - 1.9. where applicable, technical information necessary for taking evidence via videoconference.
2. The request for assistance, to the extent necessary and insofar as possible, shall also include the following:
- 2.1. information on the identity of the person concerned by the request and on his or her whereabouts;
  - 2.2. information on the identity and residence of the person on which service is to be effected and his or her status with respect to the proceedings, as well as the manner in which service is to be made;
  - 2.3. information on the identity and residence of the person who has to give testimony or make statements;
  - 2.4. the location and description of the place or item to be inspected or examined;
  - 2.5. the location and description of the place to be searched and indication of the items to be seized or confiscated;
  - 2.6. the indication of any special procedure sought for executing the request and the relevant reasons for it;
  - 2.7. the indication of any requirement for confidentiality;
  - 2.8. any other information which may facilitate the execution of the request.

## **SUB-CHAPTER II REQUESTS FOR MUTUAL LEGAL ASSISTANCE ADDRESSED BY OTHER STATES TO THE REPUBLIC OF KOSOVO**

### **Article 84 Acceptance of requests for mutual legal assistance**

1. Upon receipt of a request for mutual legal assistance, the Ministry, after examining its permissibility, shall send it for execution to the competent Basic Prosecution Office in whose territory the person concerned resides or may be found or the object concerned is located. In case the residence of the person is unknown, then the competent authority is the Basic Prosecution Office in Prishtina.
2. Where the request for mutual legal assistance relates to ongoing criminal proceedings in the Republic of Kosovo, the state prosecutor in charge of these proceedings shall be competent to execute the request.
3. If the request is not complete, the Ministry may return it to the requesting state for additional information.

### **Article 85 Refusal to provide assistance**

1. Assistance may be refused if:

1.1. the request concerns a political offence;

1.2. the execution of the request is likely to prejudice the sovereignty, security, ordre public, or other essential interests of the Republic of Kosovo;

1.3. the request is contrary to the legal system of the Republic of Kosovo.

2. If a request is fully or partially refused, the Ministry shall notify the requesting state in writing.

#### **Article 86** **Authority to execute requests**

1. The competent prosecutor shall execute the action or measure requested in accordance with national law.

2. If the prosecutor in charge of executing the request for assistance concludes that the request does not meet the conditions provided for by the national law, he or she shall return it to the requesting state, through the Ministry, along with an explanation.

#### **Article 87** **Postponed or partial execution of requests**

1. If the execution of a request for mutual legal assistance would prejudice investigations, prosecutions, or court proceedings in the Republic of Kosovo, the execution of the request may be postponed. The requesting state shall be informed of the postponement.

2. Where appropriate, after having consulted with the requesting state, the Ministry may, instead of refusing or postponing the request for assistance, consider whether the request may be granted partially or granted subject to such conditions as it deems necessary.

#### **Article 88** **Participation of foreign officials**

1. Upon request of the requesting state, the Ministry may grant permission for authorised officials of that state to be present at the execution of the request for mutual legal assistance. The national judicial authority in charge of executing the request shall notify the Ministry of the date and place of execution of the request. The Ministry shall inform the requesting state in this regard.

2. The Ministry may especially allow participation of foreign officials during the execution of a request if such participation will accommodate the execution of the request in accordance with the needs of the requesting state or if the need for additional requests would be avoided.

#### **Article 89** **Hearing by video conference**

1. When a person who is in the territory of the Republic of Kosovo needs to be heard as a witness or expert by a foreign judicial authority, that authority may request that the person be heard by video conference if it is not desirable or possible for the person to appear in the territory of that state in person.

2. The request for a hearing by video conference should indicate the reason why it is not possible or desirable for the person to be present, the name of the judicial authority and of the persons who will be conducting the hearing.

3. Requests for hearings by video conference shall be executed by the Basic Court in whose territory the person to be heard resides or is located. The court shall summon the person in accordance with the national law.

4. The hearing by video conference shall be carried out in accordance with the following rules:
  - 4.1. the hearing shall take place in the presence of a judge, who shall verify the identity of the person to be heard and shall ensure respect of his or her rights provided by national law and of the fundamental principles of the national law;
  - 4.2. where necessary, the requesting state and the Ministry shall agree on measures for the protection of the person to be heard;
  - 4.3. the hearing shall be conducted directly by, or under the direction of, the judicial authority of the requesting state in accordance with its own laws;
  - 4.4. upon the request of the requesting state or of the person to be heard, the court shall ensure provision of interpretation during the hearing;
  - 4.5. the person to be heard may claim any right not to testify which he or she might have under the national law or the law of the requesting state.
5. Without infringing upon any measures taken for the protection of the person, minutes of the hearing shall be drawn indicating the date and place of the hearing, the identity of the person heard, the identity and functions of all other persons participating in the hearing in the Republic of Kosovo, any oaths taken, and the technical conditions of the hearing. This document is to be submitted to the competent authorities of the requesting state.
6. Upon the request of the requesting state, national judicial authorities may apply the provisions of this Article to hearings by video conference involving an accused person or a suspect. In this case, the decision to hold the hearing and the manner in which it will be carried out shall be subject to national law.

#### **Article 90**

#### **Search, seizure, and confiscation**

1. Requests for search, seizure and confiscation of property may be executed only if:
  - 1.1. the offence on which the request is based is punishable under both the law of the requesting state and the national law; and
  - 1.2. the execution of the request is consistent with the national law.

#### **Article 91**

#### **Submission of property**

1. Any property, as well as original documents submitted for the execution of a request, shall be returned to the Republic of Kosovo from the requesting state as soon as possible, unless the national judicial authority renounces their restitution.
2. Submission of property, judicial materials or other required documents may be postponed when such materials are needed in the Republic of Kosovo for pending criminal proceedings.

#### **Article 92**

#### **Spontaneous exchange of information**

1. Without hindering the course of investigations or criminal proceedings, national judicial authorities may, without a prior request, transmit to the competent authorities of another state information collected during their investigations if they consider that the disclosure of such information may assist the receiving state

in initiating or carrying out investigations or criminal proceedings, or if it may lead to a request for mutual legal assistance by the receiving state.

2. The Ministry may establish conditions for the use of information referred to in the paragraph 1. of this Article.

**Article 93**  
**Service of writs and records of judicial documents**

1. The competent branch of the Basic Court shall provide serve summonses and court documents which have been submitted by another state for such purpose.

2. Service shall be effected in accordance with the national law regarding service of similar documents or, at the request of the requesting state, in accordance with the procedure indicated in the request if it is compatible with the national law.

3. Proof of service shall be provided by means of a receipt dated and signed by the person served or if such is not possible, by means of a statement indicating that the service has been effected, and the form and date of the service. If service cannot be effected, the court shall state the reasons why, which shall be communicated by the Ministry to the requesting state as soon as possible.

**SUB CHAPTER III**  
**APPEARANCE OF WITNESSES, EXPERTS, AND DEFENDANTS**

**Article 94**  
**Service of summonses to witnesses, experts, and defendants to appear before the judicial authorities of the requesting state**

1. In cases where another state considers the personal appearance of a witness or expert before its judicial authorities necessary or asks for the voluntary appearance of a defendant and requests the service of a summons in the Republic of Kosovo to that effect, the competent national judicial authority shall invite the defendant, witness or expert to appear.

2. The Ministry shall notify the requesting state of the response given by the witness, expert or defendant.

3. If witnesses, experts or defendants summoned to appear before the judicial authorities of another state fail to do so, they will not be subject to any punishment or other compulsory measures.

**Article 95**  
**Guarantees for the witness, expert or for the defendant appearing on a summons before national judicial authorities**

1. Witnesses or experts, regardless of their citizenship, who appear on a summons before national judicial authorities, shall not be prosecuted or detained or subjected to any other restriction of their personal liberty within the territory of the Republic of Kosovo in regard to offences committed before their departure from the requested state.

2. Regardless of his or her citizenship, a person appearing on a summons before a national judicial authority as an accused person shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty for any offence committed before his or her departure from the requested state and which was not specified in the summons.

3. Immunity granted by this Article will cease in cases where the witness, expert, or defendant does not leave the territory of the Republic of Kosovo within fifteen (15) days from the date when his or her presence is no longer required by national judicial authorities, or if such person left this territory and returned.

#### **Article 96**

#### **Temporary transfer of detained persons to appear as witnesses before judicial authorities of a requesting state**

1. A detained person, whose personal appearance as a witness for the purpose of examination or confrontation is requested by another state, may be temporarily transferred to the territory of that state, on condition that he or she is returned to the Republic of Kosovo within a period of time determined by the Ministry.

2. The transfer may be refused if:

2.1. the person does not consent;

2.2. his or her presence in the Republic of Kosovo is necessary because of pending criminal proceedings;

2.3. his or her transfer is liable to prolong his or her detention; or

2.4. there are other circumstances preventing his or her transfer to the requesting state.

3. The transit of a detained person through the territory of the Republic of Kosovo may be permitted if the requesting state submits to the Ministry a request for permission, accompanied by the necessary documents.

### **SUB-CHAPTER IV OTHER FORMS OF COOPERATION**

#### **Article 97**

#### **General provisions**

1. Assistance under this Chapter shall be provided in accordance with the Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters of 1959, unless otherwise provided by national law.

2. The Chief State Prosecutor's Office is competent to decide on requests under this Chapter.

#### **Article 98**

#### **Joint investigation teams**

1. The competent authorities of the Republic of Kosovo, by mutual agreement with one or more states, may form joint investigation teams for a specific purpose and for a limited period of time, for the purpose of carrying out criminal investigations in one or more of the states forming the team. The period may be extended by agreement between the parties.

2. Joint investigation teams may in particular be formed where:

- 2.1. the investigation of a criminal offence in a state involves difficult and demanding investigations which are related to other states;
  - 2.2. several states are conducting investigations into criminal offences and the circumstances require coordinated and joint action among the states involved.
3. Joint investigation teams may be formed at the request of any of the states involved.
  4. Members of the joint investigation team, which have been seconded to the team by their states, may be allowed to conduct investigations in the territory of the Republic of Kosovo, under the leadership of the Kosovo team member, in accordance with the agreement between the Republic of Kosovo and seconding states.
  5. Members of the joint investigation team shall be entitled to be present at any investigative measure taken in the Republic of Kosovo. However the leader of the team may, for particular reasons, in accordance with national law, decide otherwise.
  6. National members of a joint investigation team may, in accordance with national law and within the limits of their competence, provide the team with information available in the Republic of Kosovo for the purpose of the criminal investigations conducted by the team.
  7. Where a joint investigation team needs investigative measures to be taken in the Republic of Kosovo, national members seconded to the team may request the national competent authorities to take those measures. Those measures shall be considered in the Republic of Kosovo under the conditions which would apply if they were requested in national investigations.
  8. Information lawfully obtained by a national member of a joint investigation team, which is not otherwise available to national authorities, may be used for the following purposes:
    - 8.1. for the purposes for which the team has been formed;
    - 8.2. subject to the prior consent of the state where the information became available, for detecting, investigation and prosecuting other criminal offences;
    - 8.3. for preventing an immediate and serious threat to public security;
    - 8.4. for other purposes to the extent that this is agreed between the states forming the team.
  9. Persons other than representatives of the competent authorities of the states forming the joint investigation team may be allowed to take part in the activities of the team. The rights conferred to the members of the team by virtue of this Article shall not apply to these persons unless it has been expressly agreed otherwise.

**Article 99**  
**Covert investigations**

The authorities of the Republic of Kosovo, upon request, can offer assistance to another state in order to conduct investigations by officers acting under covert or false identity, in accordance with national law.

**SUB - CHAPTER V**  
**JUDICIAL RECORDS AND OTHER DATA**

**Article 100**  
**Requests for extracts of criminal records**



Upon the request of another state, extracts from and information on criminal records shall be transmitted to that state, provided that the information is needed in the requesting state in a criminal matter.

**Article 101**  
**Providing information from criminal records**

The Ministry may inform other states of criminal sentences imposed against the nationals of those states which have been entered in the criminal record, without a request to that effect. When a person is a national of two or more states, the information may be provided to each of these states.

**CHAPTER VII**  
**TRANSITIONAL AND FINAL PROVISIONS**

**Article 102**  
**Expenses**

1. Expenses pertaining to extraditions from the Republic of Kosovo to foreign states incurred outside the territory of the Republic of Kosovo shall be borne by the requesting states.
2. Expenditures pertaining to extraditions from other states to the Republic of Kosovo shall be provided for by the budget of the Republic of Kosovo.
3. Pursuant to this Law, other expenses incurred during the provision of international legal cooperation incurred within the territory of the Republic of Kosovo shall be supported from the budget of the Republic of Kosovo.

**Article 103**  
**Protection of personal data**

1. Pursuant to this Law, personal data transmitted to the Republic of Kosovo for the execution of a request may be used by national judicial authorities only:
  - 1.1. for the purpose of proceedings provided for by this law;
  - 1.2. for other judicial and administrative proceedings that are directly related with the procedures mentioned in paragraph 1. of this Article;
  - 1.3. for preventing a serious danger to public security.
2. Pursuant to this Law, transfer or disclosure of personal data by the Republic of Kosovo to another state in order to execute a request should be in full accordance with the Law on Protection of Personal Data.

**Article 104**  
**Authority to issue secondary legislation**

The Ministry of Justice may issue secondary legislation for the implementation of this Law.

**Article 105**  
**Repealing provisions**

With the entry into force of this Law, the Law no. 04/L-031 on International Legal Cooperation in Criminal Matters shall cease to apply.

**Article 106**  
**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. 04/L-213**  
**31 July 2013**

**Promulgated by Decree No.DL-047-2013, dated 19.08.2013, President of the Republic of Kosovo**  
**Atifete Jahjaga**