



Republika e Kosovës
Republika Kosovo - Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 05/L -034

**ON AMENDING AND SUPPLEMENTING THE LAW No. 03/L-225 ON
STATE PROSECUTOR**

Assembly of the Republic of Kosovo,

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

Approves:

**LAW ON AMENDING AND SUPPLEMENTING THE LAW No. 03/L-225
ON STATE PROSECUTOR**

Article 1

Article 11 of the basic Law shall be reworded with the following text:

Article 11
Chief State Prosecutor

1. The Chief State Prosecutor:

1.1. is the Head of the State Prosecution Office, and shall have the responsibility of managing and representing the State Prosecution Office and prosecution offices structures which comprise the State Prosecution Office;

1.2. appoints the Deputy Chief State Prosecutor, among the prosecutors in the Office of the Chief State Prosecutor, which replaces the Chief State Prosecutor upon his/her absence;

1.3. has jurisdiction throughout the territory of the Republic of Kosovo;

1.4. has exclusive jurisdiction over third instances cases before the Supreme Court and over all cases that include extraordinary legal remedies;

1.5. issues, in writing, the rules, guidelines and overall binding decisions for all chief prosecutors and prosecutors in order to implement the legislation, improve efficiency and unique implementation of practices and legislation;

1.6. oversees the implementation of guidelines, and the other acts set forth in subparagraph 1.5 of this article.

1.7. proposes rules on activity and management of evidences in prosecution offices to be adopted by the Council;

1.8. performs other duties defined by the Law.

2. In order to develop efficient procedure or for other important reasons, Chief State Prosecutor upon a written decision, may assume jurisdiction on any case at any prosecution office in the Republic of Kosovo, or re-assign it to any other prosecution office. Except the mentioned elements, such a decision should justify at least the negligence, professional disability or conflict of interest of prosecutor/s that make such a decision reliable.

Article 2

Article 12 of the basic Law shall be deleted from the text of the Law.

Article 3

After Article 12 of the basic Law, there shall be added a new Article 12/A with the following text:

Article 12/A Prosecution Offices professional associates

Professional associates and interns in the Prosecution Office exercise their functions in accordance with the criteria set by the Regulation of Kosovo Prosecutorial Council.

Article 4

Article 13 of the basic Law shall be reworded with the following text:

Article 13 Chief Prosecutor

1. The Chief Prosecutor manages the work and represents the prosecution office to which is appointed.
2. The Chief Prosecutor of the Appellate Prosecution Office, Chief Prosecutor of the Special Prosecution Office of the Republic of Kosovo, and Chief Prosecutors of Basic Prosecution Offices are appointed and dismissed in accordance with the Law.
3. The Chief Prosecutor shall be responsible for the work of the prosecution office and shall report for his work to the Chief State Prosecutor and the Prosecutorial Council.
4. The prosecutors of the Prosecution Office shall report to the Chief Prosecutor for their work.
5. With the prior consent of the Chief State Prosecutor, each Chief Prosecutor of the respective prosecution office may assume the prosecution function in a specific case which is assigned to a subordinate prosecutor of that prosecution office. Assuming the case should be done by a justified decision.
6. In each prosecution office the assignment of cases shall be done according to fortuity system, based on objective criteria. The Council shall be obliged that within three (3) months after the entry into force of this Law to issue a regulation regarding the assignment of the cases.
7. The Chief State Prosecutor, or an authorized prosecutor from the Chief State Prosecution Office, may give binding instructions in writing for a specific case to the Chief Prosecutor of a prosecution office or any other prosecutor of prosecution offices:
 - 7.1. Chief Prosecutors of the Prosecution Offices may give such instructions in writing to the prosecutors in the prosecution office that they lead. Such instructions should be justified and should not violate the functional and professional independence of prosecutors, and in particular, should not contain instructions regarding the qualification of the act, methods of investigation and gathering the evidences, as well as justification of the investigation and indictment;
 - 7.2. Internal procedures shall address the cases for which there shall be issued administrative instructions and internal procedures shall be drafted to address the situations when the instruction is either illegal or in contradiction to the

conscience of the subordinate.

8. The instructions shall be given with the purpose of the enforcement of legality, increase of efficiency and unique implementation of practices and legislation.

9. The Chief State Prosecutor or the prosecutor of the Chief State Prosecution office authorized by him/her, may request reports or other written information on the progress, the status or solving of certain cases. Such a request shall be made in a written form.

10. Any of the Chief Prosecutors of respective prosecution offices may request such reports in writing or information by a subordinate prosecutor.

11. The Chief State Prosecutor and Chief Prosecutors may delegate certain competencies to their subordinates.

Article 5

Article 14 of the basic Law shall be reworded with the following text:

Article 14 Competences and Organization of the State Prosecution Office

1. The State Prosecution Office in the Republic of Kosovo shall be organized and shall function in accordance with this law and the Law on Special Prosecution Office.

2. The State Prosecution Office has the jurisdiction for prosecuting persons accused of a criminal offence, exercise legal remedies from its competences, and perform other duties foreseen by the Law.

3. The matter and territorial jurisdiction of the State Prosecution Office is determined pursuant to the legal provisions of the law which determines the court jurisdiction, before which they perform their powers, unless otherwise envisaged by this law.

4. The State Prosecution Office consists of:

4.1. the Office of the Chief State Prosecutor, with headquarters in Prishtina as the highest instance of the State Prosecution Office with jurisdiction in the entire territory of the Republic of Kosovo;

4.2. the Special Prosecution Office as a specialized prosecutorial body, with jurisdiction in the whole territory of the Republic of Kosovo, as defined by the law in force;

4.3. Appellate Prosecution Office, which consists of the General Department, Juvenile Department and the Department for Serious Crimes;

4.4. Basic Prosecution Offices consist of a General Prosecution Department, Juvenile Prosecution Department and a Serious Crimes Prosecution Department.

5. The Basic Court in Prishtina shall have the head of the General Department, Juvenile Department and the Department for Serious Crimes, appointed by the Kosovo Prosecutorial Council.

6. Prosecutorial functions in the Chief State Prosecutor Office are performed by the Chief State Prosecutor and prosecutors in the Office of the Chief State Prosecutor, in accordance with the relevant legislation in force.

7. The prosecutorial functions in the Appellate Prosecution Office and Basic Prosecution Offices are performed by the Chief Prosecutors and prosecutors of the above Prosecution Offices, in accordance with the relevant legislation in force.

8. The prosecutorial functions in the Special Prosecution Office are performed in accordance with the relevant legislation in force.

Article 6

Article 16 of the basic Law shall be reworded with the following text:

Article 16 Appellate Prosecution Office

1. Appellate Prosecution Office is established to act and represent cases before the Court of Appeals.

2. The Appellate Prosecution Office has jurisdiction in the entire territory of the Republic of Kosovo.

3. When a prosecution case is heard by the Court of Appeals, the prosecutor who initiated or prosecuted the case may, with the approval of the Chief State Prosecutor, accompany and assist the prosecutor of the Appellate Prosecution Office in presenting or defending against the appeal.

4. The Headquarter of the Appellate Prosecution Office is in Prishtina.

Article 7

Article 19 of the basic Law shall be reworded with the following text:

Article 19 General Conditions

1. The candidate to be appointed as a State Prosecutor should meet the following criteria:
 - 1.1. be a citizen of the Republic of Kosovo;
 - 1.2. have a university degree in Law valid in Kosovo;
 - 1.3. have passed the bar examination, recognised according to the applicable Law in Kosovo;
 - 1.4. have high professional reputation and personal integrity;
 - 1.5. not have been convicted of a criminal offence;
 - 1.6. have at least three (3) years of legal field experience, and
 - 1.7. have passed the written exam for a prosecutor, in accordance with the terms and procedures set by a special regulation approved by the Council.
2. For the purpose of this Article, experience in the legal field shall include experience on legal matters in national and international institutions and organizations, experience as a notary and as a private enforcement agent.

Article 8

Article 20 of the basic Law shall be reworded with the following text:

Article 20 Conditions for State Prosecutors

1. Following the appointment by the President of Kosovo, these prosecutors, except those who have prior experience as prosecutors, shall undergo initial training that will be organized by the Kosovo Judicial Institute. The initial training should last twelve (12) months, based on legislation in force.
2. During the initial training period prosecutors will not be assigned to cases.

3. The appointed prosecutors will be evaluated following the results of the initial training based on relevant provisions of the Law. The initial training period shall be extended for those prosecutors that fail to complete in adequate way the initial training, as defined by Kosovo Judicial Institute.

4. In addition to the minimum qualifications, all candidates for appointment as state prosecutor, or for appointment or promotion in particular prosecution office should have the following qualifications:

4.1. to serve as a prosecutor in the Serious Crimes Department or Juveniles Department in the Basic Prosecution Office, the prosecutor shall have at least three (3) years of experience as prosecutor or judge in criminal field, as well as based on performance assessment;

4.2. to serve as a prosecutor in the Appellate Prosecution Office, the prosecutor should have at least five (5) years of experience as prosecutor, of which at least three (3) years of experience as prosecutor in the Specialized Department of the Basic Prosecution Office or in the Special Prosecution Office of the Republic of Kosovo, as well as based on performance assessment;

4.3. to serve as a prosecutor in the Special Prosecution Office, the prosecutor should have at least six (6) years of experience as prosecutor, of which four (4) years of experience as prosecutor in the Serious Crimes Department of Basic Prosecution Office;

4.4. to serve as a prosecutor in the Chief State Prosecutor Office, the prosecutor should have at least seven (7) years of experience as a prosecutor, as well as based on performance assessment;

4.5. to serve as Chief State Prosecutor, the prosecutor should have at least eight (8) years of experience as a prosecutor, as well as based on performance assessment.

Article 9

After Article 20 of the basic Law, there shall be added a new Article 20/A with the following text:

20/A End of mandate

1. The prosecutor's mandate ends upon:

1.1. resignation;

- 1.2. dismissal;
- 1.3. death;
- 1.4. retirement;
- 1.5. the loss of working ability due to proved medical reasons, and
- 1.6. if not re-appointment with a permanent mandate.

Article 10

Article 21 of the basic Law paragraph 1 sub-paragraph 1.11 shall be reworded with the following text:

1.11. Prosecutors are entitled to the leave in accordance with the respective Law on Labour.

Article 11

Article 25 of the basic Law shall be reworded with the following text:

Article 25 Professional Activities

1. Upon approval by the Council, prosecutors have the right to take part in professional organizations, scientific meetings, which promote independence and protection of professional interests of prosecutors.
2. Prosecutors, out of working hours, upon the decision of the Council, may engage in activities which are in accordance with the Code of Ethics and Professional Conduct of Prosecutors.
3. In accordance with the Provisions of the Code of Ethics and Professional Conduct of Prosecutors, prosecutors may engage in professional and scientific writings but may not publish relevant content of prosecution case files during or after the mandate serving as prosecutors, unless expressly permitted by Law or other sub-legal act issued by the Council.
4. Prosecutors who receive remuneration for these activities may not exceed the value of twenty-five percent (25%) of the basic salary, for participation in activities foreseen by this Article and they shall notify the Council regarding this remuneration.

Article 12

After Article 32 of the basic Law, there shall be added a new Article 32/A with the following text:

Article 32/A Transitional Provisions

1. For the duration of the EULEX Kosovo mandate, the Chief State Prosecutor may not assume jurisdiction over cases assigned to a EULEX Prosecutor, without the consent of the Chief EULEX Prosecutor.
2. The status of the administrative staff shall be subject to principles of civil service and shall be regulated by a special Law.

Article 13 Entry into force

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

**Law No.05/L-034
28 May 2015**

President of the Assembly of the Republic of Kosovo

Kadri VESELI