



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

Law No. 05/L-103

**ON AMENDING AND SUPPLEMENTING THE LAWS RELATED
TO THE MANDATE OF THE EUROPEAN UNION RULE OF LAW
MISSION IN THE REPUBLIC OF KOSOVO**

The Assembly of the Republic of Kosovo;

Based on Article 65 (1) of the Constitution of the Republic of Kosovo, and Law No.05/L-102 on Ratification of the International Agreement Between the Republic of Kosovo and the European Union on the European Union Rule of Law Mission in Kosovo,

Approves:

**LAW ON AMENDING AND SUPPLEMENTING THE LAWS
RELATED TO THE MANDATE OF THE EUROPEAN UNION RULE
OF LAW MISSION IN THE REPUBLIC OF KOSOVO**

CHAPTER I

Article 1
Purpose

1. The purpose of this Law is to amend and supplement the following laws related to the mandate of the European Union Rule of Law Mission in Kosovo (“EULEX”):

1.1. Law No. 03/L-052 on Special Prosecution Office of the Republic of Kosovo, as amended by Law 04/L-273 on amending and supplementing the laws related to

the mandate of the European Union Rule of Law Mission in the Republic of Kosovo;

1.2. Law No. 03/L-053 on Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo, as amended by Law 04/L-273 on amending and supplementing the laws related to the mandate of the European Union Rule of Law Mission in the Republic of Kosovo;

1.3. Law No.04/L-033 on Special Chamber of the Supreme Court of Kosovo on Privatization Agency Related Matters; as amended by Law 04/L-273 on amending and supplementing the laws related to the mandate of the European Union Rule of Law Mission in the Republic of Kosovo.

CHAPTER II
AMENDING AND SUPPLEMENTING THE LAW NO 03/L-052 ON SPECIAL PROSECUTION OFFICE OF THE REPUBLIC OF KOSOVO, AS AMENDED BY LAW 04/L-273 ON AMENDING AND SUPPLEMENTING THE LAWS RELATED TO THE MANDATE OF THE EUROPEAN UNION RULE OF LAW MISSION IN THE REPUBLIC OF KOSOVO

Article 2

Article 15 of the Law No.03/L-052, as amended by Article 2 of the Law No.04/L-273, paragraph 15.4. and 15.5. are deleted from the text of the law.

CHAPTER III
AMENDING AND SUPPLEMENTING THE LAW NO. 03/L-053 ON THE JURISDICTION, CASE SELECTION AND CASE ALLOCATION OF EULEX JUDGES AND PROSECUTORS IN KOSOVO AS AMENDED BY LAW 04/L-273 ON AMENDING AND SUPPLEMENTING THE LAWS RELATED TO THE MANDATE OF THE EUROPEAN UNION RULE OF LAW MISSION IN THE REPUBLIC OF KOSOVO

Article 3

Article 1A of the Law is No.04/L -273 is reworded as follows:

Article 1A
Ongoing cases

1. For the purposes of this law ongoing cases means:

- 1.1. The criminal case on which the decision on the initiation the investigations is taken by EULEX prosecutors before 15 April, 2014, in accordance with the law;
 - 1.2. The criminal case that, based on Article 7/A of the Law 04/L-273 was transferred to the EULEX prosecutor, after 15 April 2014 until 15 June, 2016;
 - 1.3. The case which is assigned to the competence of EULEX judges before 15 April, 2014;
 - 1.4. Criminal case, as defined in paragraph 1.1 and 1.2 of this Article, which is assigned to an EULEX judge after the 15 April, 2014 until 15 June, 2016.
2. For the purpose of this law, the case set forth in paragraph 1. of this Article, shall be deemed as an ongoing case in the entire course of the criminal proceedings at any stage or judicial instance until a final court decision is taken, including the review on the basis of extraordinary legal remedies.

Article 4

Article 3 of the Law No.03/L-053, as amended by Article 3 of the Law No.04/L-273 is reworded as follows:

Article 3

Jurisdiction and competences of EULEX judges for criminal proceedings

- 3.1. EULEX judges assigned to criminal proceedings will have jurisdiction and competence over the ongoing cases as defined in Article 1A of this Law;
- 3.2. A EULEX judge can be assigned to the respective stage of the criminal proceedings, for the ongoing cases set forth in Article 1.A, in compliance with the Kosovo Judicial Council internal regulation;
- 3.3. Panels in which EULEX judges exercise their jurisdiction in criminal proceedings will be composed of a majority of local judges and presided by a local judge.
- 3.4. In extraordinary circumstances upon reasoned request of the President of the Supreme Court, the Judicial Council may decide that the panel be composed of majority of EULEX judges.
- 3.5. Notwithstanding paragraph 4. of this Article, in extraordinary circumstances, upon reasoned request of the EULEX competent authority, and through the Chairman of the Judicial Council, the Judicial Council may decide that the panel be composed of majority of EULEX judges.

3.6. When the panel is composed of a majority of EULEX judges, per paragraph 3.4 and 3.5 of this Article, the Kosovo Judicial Council may decide that the presiding judge be a EULEX Judge.

Article 5

After Article 3 of the basic Law, a new Article 3A is added with the following text:

Article 3A Transfer of Cases in Courts

3A.1. The cases that fall within the scope of this law and led by EULEX may be transferred to the local institutions at the end of the respective procedural stage.

3A.2. All cases will be transferred from EULEX to the local institutions, upon ending of the current mandate of the EULEX mission in Kosovo foreseen in the law.

Article 6

1. Article 5 of the Law No.03/L-053, as amended by Article 3 of the Law No.04/L-273, paragraph 5.1, the words “stipulated in Article 1.A sub-paragraph 1.2.”, are replaced with the words “defined in Article 1.A of this Law”.

2. Article 5 Law No.03/L-053, as amended by Article 3 of the Law No.04/L -273, paragraph 5.2 is reworded as following:

“5.2. Panels in which EULEX/International judges exercise their jurisdiction in civil proceedings will be composed of majority of local judges and presided by a local judge. In extraordinary circumstances upon reasoned request of the President of the Supreme Court, or reasoned request of the EULEX competent authority, and through the Chairman of the Judicial Council, or the Judicial Council may decide that the panel be composed of majority of EULEX judges”

Article 7

1. In Article 7 Law No.03/L-053, as amended by Article 3 of the Law No.04/L-273, paragraphs 1., 2. and 3. of the Law are reworded as following:

“7.1. EULEX prosecutors will have the authority and responsibility to perform their functions, including the power to investigate and prosecute the matters set forth in Article 1A of this Law.

7.2. EULEX Prosecutors will have authority to exercise their functions in the respective Prosecution Office that they are assigned to, by an agreement between the Kosovo Prosecutorial Council and the EULEX Competent Authority.

7.3. The EULEX prosecutors are integrated into the Kosovo Prosecutorial system and will discharge their functions under the supervision of EULEX Competent Authority, in compliance with the applicable legislation in Kosovo and the relevant regulations of the Kosovo Prosecutorial Council.”

2. In Article 7 of the Law No.03/L-053, as amended by Article 3 of the Law No.04/L-273, paragraph 7.5. is deleted from the text of the Law.

Article 8

Article 7A of the Law No.04/L-273 is reworded as following:

Article 7A

Authority of EULEX Prosecutors in Extraordinary Circumstances

1. In Extraordinary circumstances upon reasoned request of the Chief State Prosecutor the Prosecutorial Council may decide that as case is assigned to a EULEX Prosecutor, upon agreement by the EULEX Competent Authority.

2. Notwithstanding paragraph 1. of this Article, in extraordinary circumstances, the competent EULEX Authority, based on grounded reasons may propose that a case is assigned to an EULEX Prosecutor. Following the review and recommendation of a Commission composed of the Chief State Prosecutor, Chief Prosecutor of the Special Prosecution Office and the Chief Prosecutor of the Appeal Prosecution office, the Kosovo Prosecutorial Council may decide that the case is assigned to a EULEX Prosecutor.

3. The cases falling within paragraphs 1. and 2. of this Article will be subject to paragraph 2. of Article 1A of this Law.

Article 9

Article 7B of the Law No.04/L-273 is reworded as following:

Article 7B

Transfer of Cases in Prosecution

7B.1. Cases from EULEX can be transferred to the Kosovo State Prosecutor at any time during the proceedings, with due regard being paid to the efficient and timely processing of the case, based on a reasoned decisions.

7B.2. In the case of the transfer of the cases, EULEX Prosecutors will attach to the case file a handover note containing information regarding the case and the steps already undertaken.

7B.3. All cases will be transferred from EULEX to the local institutions, upon ending of the current mandate of the EULEX mission in Kosovo foreseen in the law.

CHAPTER IV

AMENDING AND SUPPLEMENTING THE LAW NO.04/L-033 ON SPECIAL CHAMBER OF THE SUPREME COURT OF KOSOVO ON PRIVATIZATION AGENCY RELATED MATTERS; AS AMENDED BY LAW 04/L-273 ON AMENDING AND SUPPLEMENTING THE LAWS RELATED TO THE MANDATE OF THE EUROPEAN UNION RULE OF LAW MISSION IN THE REPUBLIC OF KOSOVO;

Article 10

In Article 3 of the Law No.04/L-033, as amended by Article 6 of the Law No.04/L-273, paragraph 12. of the Law is reworded as following:

“12. The appellate panel shall be composed of five (5) judges, two (2) of whom shall be EULEX/international judges. In extraordinary circumstances, upon reasoned request of the President of the Supreme Court or request of the EULEX competent authority, and through the Chairman of the Judicial Council, the Judicial Council may decide that the panel be composed of majority of EULEX judges. The President of the Special Chamber shall serve as the presiding judge of the appellate panel. The four (4) other members of the appellate panel shall be assigned by the President of the Special Chamber after consultation with the President of Kosovo Judicial Council.”

Article 11 Entry into force

This law enters into force in the day of its publication in the Official Gazette of the Republic of Kosovo.

**Law No. 05/L-103
17 June 2016**

President of the Assembly of the Republic of Kosovo

Kadri VESELI