



PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No.2004 / 6

ON TRANSPORT OF DANGEROUS GOODS

The Assembly of Kosovo:

Based on UNMIK Regulation No. 2001/9 of 15 May on Constitutional Framework of Provisional Self-Government in Kosovo, in particular Articles 5.1 (l), 5.7, 9.1.26 (a).

For the purpose of securing traffic during transportation of Dangerous Goods in the individual sector of transport, obligations of persons involved during transport in question, competencies and responsibilities of respective authorities about supervision regarding the implementation of this Law, and adaptation of international standards, including approximation to EU standards, which are important to prevent the risk during dangerous goods transportation.

Approves:

LAW ON TRANSPORT OF DANGEROUS GOODS

General Provisions

Article 1

Through this Law is aimed to prevent the risk, and to increase supervision and safety of traffic during the transportation of dangerous goods which by their combustible, poisonous, explosive, vaporous, infectious, and radioactive features present danger for human and environment safety, regulates terms of dangerous goods transport in individual sector of transport, obligations of persons involved in Transport of Dangerous Goods, competencies and responsibilities of respective authorities on supervision regarding the implementation of this Law.

Definitions

Article 2

Dangerous Goods according to this Law are substances and objects which endanger public safety or public order, in particular public, life and health of humans as well as animals, plants and objects due to their nature, characteristics or conditions, during transportation, whose carriage is forbidden by ADR or are allowed to be transported under special terms.

Ministry means Ministry of Transport and Communications.

Person means a legal and natural person.

Person on transport safety means the employed person with the relevant appropriate qualification.

Transportation according to this Law, does not consist only of procedures of changing the place, but also taking into possession the goods and goods consignment as well. Including temporary standings during transport, preparation and finalization (packing and unpacking of goods, loading and unloading) and even if these activities are not performed by the consigner.

Container is a designated tool which serves to place, gripe and protect the goods loaded on it.

Kettle is the tool which keeps the mass of minimum not less than 150 liters and not larger than 1000 liters.

Cistern is a tool situated on transport vehicle platform (kettles, barrels) for transportation of materials in a fluid condition or pressurized gases.

License is the right to perform regular transport of dangerous goods activity.

Transport means changing the place of the dangerous goods, including stops due to transport conditions, and including any past period of dangerous goods on vehicle, cistern and container, depending on traffic conditions, during and after change of the place.

Carrier means the enterprise engaged in transportation activities.

Transport Operator – a legal or natural person exercising activity of public transport of dangerous goods.

Consigner means the enterprise performing shipment of dangerous goods, either on its behalf or for a third party, if transport is performed on a carriage contract. Consigner means the shipment according the carriage contract.

Loader means any enterprise performing loading of dangerous goods on a vehicle or a container.

Packaging means a complete packing of a product ready for carriage, this term has nothing to do with substances which are carried by cistern.

Labeling or Marking means labels which are set in the transport means to define dangerous goods as well as the dangerousness of the good.

Competent authority means an authority or any other authorities defined as it at any place and any particular event, in accordance with the local law.

ADR is the European agreement for transport of dangerous goods by road.

RID European agreement for transport of dangerous goods by rail.

COTIF Convention on International Railway Transport.

Consignee – Pursuant to the carriage contract, in case the consignee appoints' a third party for carriage in applicable provisions in the carriage contract, this person must be a consigner in the sense of explanation according to ADR.

Object of the Law

Article 3

Object of this Law is Transport of Dangerous Goods on Roads (in conformity to ADR) and Railways (COTIF and RID).

Exception of Applicability

Article 4

This Law does not apply on transport within an existing plant where the Dangerous Goods are produced, handled, processed, stored or systemized until are transported within indoor space.

International Standards

Article 5

The Law is based on the directives of the European Community and the other International Mechanisms on safety and transport of dangerous goods such as (ADR, RID and COTIF). Directives said shall be defined by the Ministry and shall be implemented through special legislative acts.

Prohibition

Article 6

No one person can engage in dangerous goods transport without license, issued by the Ministry.

Classification and Designation

Article 7

Classification and designation of dangerous goods (defined as unspecified by ADR rules) shall be defined by the Ministry in cooperation with the pertinent Ministries.

International Agreements
Article 8

Transport of dangerous goods from, to or through Kosovo, performed by foreign entities or domestic entities, is performed in accordance to provisions of this Law and sub-legal acts coming out of it, as long these are not in contradiction to international agreements signed by persons with respective competency of Kosovo in coordination with UNMIK.

Dangerous Goods Transportation by vehicles not fulfilling conditions;
Article 9

Transport of Dangerous Goods is allowed by the vehicles not fulfilling conditions of Article 8, in cases when the nature of transported goods guarantees their preservation and transportation by kettles, package and container, which are guaranteed with pertinent certificates issued by the good manufacturer.

Agreement between the consignor and the carrier
Article 10

Between the consignor and the carrier shall be made an agreement on dangerous transportation, wherein mutual obligations and responsibilities, deriving from its implementation are determined.

Required documentation
Article 11

11.1. According to this Law and acts emerging from it, the vehicle transporting the dangerous goods during the transportation must have the entire required documentation.

11.2. The transport is deemed accomplished on written confirmation for receiving the goods by the consignee, determined in the agreement by the consignor, and a copy is kept by the transporter.

11.3. The time of keeping the documents of dangerous goods transport of all entities in relation to it, it is 10 years.

Prohibition of transportation by non standardized vehicles
Article 12

Transportation of Dangerous Goods is prohibited to be performed by non standardized vehicles.

The request to obtain the license
Article 13

13.1. To obtain the license for transportation of dangerous goods the operator makes a request to the Ministry.

13.2. The Ministry within a time limit not longer then 30 days will notify the pretender in question whether his request is approved or rejected.

13.3. When operator's request for license is rejected he/she shall be notified in written.

13.4. The complaints procedure laid down in Article 29 of this law applies.

License issuance
Article 14

14.1. The license for Transport of Dangerous Goods is issued to the Operator when all the foreseen conditions by this Law are fulfilled.

14.2. The license for the Operator of Transport of Dangerous Goods, is revoked in case when authorized persons verify that the operator failed to fulfill or lost the foreseen conditions based on which the operator has obtained the license.

14.3. Licenses are granted for a definite period of time and in compliance with the limited terms of loading, speed, passing roads and loads' accompany.

14.4. The license is issued by the Ministry.

14.5. The license is neither assignable nor transferable.

The criteria to realize the right on license
Article 15

15.1. Criteria to obtain the license are:

- a) Professional competence;
- b) Good reputation;
- c) Financial reliability;
- d) Fulfillment of technical standards.

15.2. For more detailing determinations to an entity which pretends' to obtain the license for dangerous goods transportation the Ministry issues special legal acts.

Obligations of the Licensed Person Article 16

16.1. Each licensed person should prepare annual reports on the activity of transport scope of the dangerous goods and undertake measures for transport safety. These reports should be handed over to the authorized bodies according to the requests, and the reports should be saved at least for five years.

16.2 Each of non licensed person for transport of dangerous goods must employ one person , who provide safety of transport.

Tasks of person in charge of safety transport Article 17

17.1 Person for safety of transport under the supervision and responsibility of the employer, cares to undertake necessary measures to provide a safety transport of dangerous goods. His tasks are focused on the supervision of transport safety and implementation of norms determined through legislative acts including the consultancy of undertakers on the transport of dangerous goods in conformity with standards determined through the Law and other legislative acts and also makes the assessment of dangerousness of goods for transport , including the consultancy on necessary measures for safety of transport and loading –downloading of dangerous goods. Besides those tasks, this person is obligated to prepare detailed reports for different accidents.

17.2 Tasks of this employee can be carrying out by the Head of Enterprise or an authorized person in charge of other duties to the Enterprise, if those persons are capable and do possess professional abilities to carry out tasks as such.

17.3 Person for safety of transport should have the adequate professional background on carrying out of these tasks. The appropriate professional background is determined through competent body , which organizes professional retraining courses. Competent Body issues Certificates for that purpose.

17.4 Transporter informs the Competent Body on appointment of the employee.

Revocation and suspension of the license Article 18

18.1. Revocation or suspension of the license is issued by the Ministry according to Article 15.1 and 15.2.

18.2. Revocation or suspension of the license can be done also on the request of person who obtained it.

Exemption from obtaining the license
Article 19

KFOR, KPC, UNMIK and KPS Police authorities are exempted from the license when dealing with dangerous goods transportation while fulfilling their duties.

Authorizations
Article 20

20.1. The Ministry is authorized through special legal acts to issue regulations on Dangerous Goods Transport including :

- a) permitting the Goods for transport;
- b) packaging, joint packaging, joint loading;
- c) the load labeling;
- d) construction, nature, equipment, control and marking of vehicles and containers of transport;
- e) the conduct during transportation;
- f) the license of transport and documents of transport;
- g) information – registration and reporting obligations;
- h) vehicles performance;
- i) qualifications;
- j) the measure and the way of controlling the proceeding;
- k) the protection manner of proceeding for the transport personnel;
- l) the behavior and protection and the way of first aid of acting after an accident with dangerous goods.
- m) participants obligations concerning the safety in Transport of Dangerous Goods,
- n) transport personnel, including their medical monitoring and examination, the necessity for training, testing and further education as well as the determination of quality standards of the training personnel and of the instructors.
- o) safety advisors in the company for Transport of Dangerous Goods, including training, testing and their further education as well as the determination of quality standards of the training personnel and of the instructors.
- p) documentation and obligation to report on dangerous waste.
- q) transport of dangerous goods by railway according to RID.
- r) carriage of explosive, combustibile and dangerous materials in postal circulation.

20.2. On the rules issued in conformity with Article 3 exceptions may be done for KFOR, UNMIK Police, KPS, and Firefighters as long this is deemed necessary for the matters concerning entities in question.

Education
Article 21

21.1. The Ministry shall engage in to find possibilities and ways of: advancing the education, examination and further education of people dealing with the transport of dangerous goods, through training programs.

21.2. Ministry organizes courses and professional examinations on candidates retraining in order to get knowledge on dangerous goods, avoiding of risks related to transport of dangerous goods an also regarding the existing legislative norms on transport arrangement of dangerous goods.

21.3. Retraining courses are composed of two main components: General measures for safety of risks as well the training on local, European and International norms to the scope of transport for dangerous goods.

Emergency measures

Article 22

22.1. The Ministry may prohibit or permit under certain restrictions transport of dangerous goods, if applicable regulations on safety are not suitable to mitigate transport risks.

22.2. Measures of this kind shall be undertaken by means of special legal acts.

Security measures / rejection of transportation of dangerous goods

Article 23

23.1. In case the person transporting dangerous goods acts in non-compliance with the legislation on transport of dangerous goods, or can not present the required documentation, competent authorities may undertake measures to eliminate the defect, if necessary, may prohibit ongoing transport until the transport suppositions are met.

23.2. Article 6 applies even to the load (cargo) of dangerous goods transport.

Control

Article 24

24.1. Transport of Dangerous Goods is controlled by authorized authorities.

24.2. Responsible persons for transport of dangerous goods are obliged to give the documentation and information to competent authorities of control.

24.3. Obligation exists also toward the request for report of laboratory analyses, and substance and dangerous goods testing, packaging samples in order to enable an official research (investigation).

24.4. The person obliged for information must facilitate the competent authority of control on their investigations.

Responsibility Article 25

Responsible for transport of dangerous goods it is the operator or company owner who:

- a) packages, loads, sends, carries, unloads, receives dangerous goods
- b) produce materials for packaging, containers or vehicles for transport of dangerous goods.

Official Help and Data Providing Article 26

26.1. Transmission of personal data in the event of giving the official help to the competent authority of European Union (EU) Member States or other States to whom Kosovo has Bilateral Agreements in order to control transportation of dangerous goods, it is permitted only if that's essential for prosecution of serious violations of regulations on Transport of Dangerous Goods (ADR).

26.2. Serious violations of the company situated in a Member State of the European Union or other States shall be notified to respective authority of the responsible State. Simultaneously to these competent authorities shall be requested to undertake actions in relation to the company.

26.3. Serious violations with the vehicle registered in a Member State of the European Union or another State based on the reciprocity agreement, competent authorities of respective states shall be notified.

26.4. Simultaneously to these State authorities with respective competence may be requested to undertake certain actions in relation to the company.

Cooperation with other Ministries Article 27

On the matters of dangerous goods transport the Ministry cooperates with the: Ministry of Health, Ministry of Environment Protection and Spatial Planning, Ministry of Public Services, Ministry of Finance, Ministry of Trade and Industry, Ministry of Agriculture, Forestry and Rural Development, and with all entities concerning with transport of dangerous goods.

Fines Article 28

28.1. Violation of this Law will have as a consequence, application of punitive provisions to legal and natural persons.

28.2. Premeditated and negligence violations may be committed.

28.3. Legal person responsible for violation of legal and sub-legal acts shall be liable of a punishment fine not less then 500 Euro and not more then 5000 Euro.

28.4. Natural person responsible for violation of legal and sub-legal acts shall be liable of a punishment fine not less then 300 Euro and not more then 3000 Euro.

28.5. All fees coming from the application of the provisions to this Law are submitted to the Consolidated Budget of Kosovo.

Complaints Article 29

29.1. Against decision of the Ministry persons with competence, legal and natural person may make a complaint to the Ministry within an eight days time-limit.

29.2. The Ministry within a 30 days time limit shall decide in relation to the complaint.

29.3. Against decision of the Ministry regarding the complaint, legal or natural person may initiate a court procedure at the court of pertinent competence.

Implementation Article 30

The Ministry shall issue sub-legal acts necessary for the implementation of this Law.

Enter in force Article 31

This Law enters into force after the approval in the Assembly, signed by the President of the Assembly and law promulgation by SRSG.

Law No 2004 / 6
01 April 2004