



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

Law No. 03/L-137

ON THE DEPARTMENT OF FORENSIC MEDICINE

Assembly of Republic of Kosovo,

In support of article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON THE DEPARTMENT OF FORENSIC MEDICINE

GENERAL PROVISIONS

Article 1

Purpose of the Law

1. This Law establishes the Department of Forensic Medicine as the competent public authority responsible for providing forensic medicine and medical death investigation expertise, including also exhuming the human remains related to the armed conflict in Kosovo, and returning the remains to their families.
2. This Law determines the organizational structure, competencies and responsibilities of the Department of Forensic Medicine.

Article 2 Definitions

1. For the purpose of this Law the following terms have these meaning:

“Forensic Medicine” is the branch of medicine that applies medical knowledge to legal issues and legal proceedings.

Forensic medicine includes but is not limited to the following disciplines: clinical forensic medicine, toxicology, histopathology, forensic pathology, forensic anthropology, forensic archaeology, and forensic odontology.

“Forensic pathology” is a branch of medicine concerned with determining a cause and reporting on facts surrounding the manner of death of a person.

“Autopsy” is a medical procedure that consist of a thorough examination of body or mortal remains to determine the cause and time of death and to evaluate any injury that may be present, or to establish the nature of the disease which caused the death and to study the pathology of a disease. An autopsy can be performed through either a court-order, close relative’s consent, or through public interest.

“Clinical forensic examination” is a medical procedure that consists of an examination of a living individual to diagnose a disease, study injuries, or health conditions for legal purposes.

“Toxicology” is the study of the adverse effects of chemicals on living organisms.

“Histopathology” means the microscopic examination of tissue to study to the manifestation of a disease.

“Medical investigator on death cases” means trained professionals, who attend a death scene, document, collect, preserve and transmit physical evidence regarding the body or mortal remains for analysis, and follow up on cases as needed to thoroughly understand the circumstances in sudden, violent and unattended deaths.

“Missing Persons” are persons whose whereabouts is unknown.

“Forensic Anthropology” is a discipline for the application of physical anthropology standard scientific techniques to identify mortal remains and to assist in the medical investigation in the judicial process.

“Biological anthropological profile” is a procedure that consists of a physical examination of mortal remains, performed by a forensic anthropologist, with the purpose to suggest the age, sex, origin, statute, and unique features of the mortal remains.

“Forensic Archaeology” means the application of archaeological methods to assist in locating, exhuming, and recording mortal remains to assist in the medical investigation in the judicial process.

”Medical Certificate on Cause of Death” means a formal document that may determine the cause of death of a body or mortal remains issued by a forensic pathologist.

“Identification certificate” means a formal document that identifies a body or mortal remains.

Article 3 Competencies

The Department of Forensic Medicine shall be responsible managing and maintaining a forensic system based on international recognized standards and European best practices to provide forensic medical services, teaching, and outreach services for missing persons.

Article 4

Organizational Structure of the Department of Forensic Medicine

1 The Department of Forensic Medicine shall be established within the Ministry of Justice.

2. The Forensic Institute of the Ministry of Health and the Office of Missing Persons and Forensics within the Ministry of Justice shall be integrated into the Department of Forensic Medicine.

3. The Department shall be composed of the following Divisions:

3.1. Division of Forensic Medicine;

3.2. Capacity Building and Research Division;

3.3. Division for Identification, Coordination and Support;

4. Within the Divisions of the Department of Forensic Medicine shall be established the following Sections and Services.

4.1. within the Division of Forensic Medicine the following working sections shall be established:

4.1.1. Autopsy Section;

4.1.2. Clinical Examination Section;

4.1.3. Section of Medical Investigation on death Cases;;

4.1.4. Forensic Medical-Anthropology and Archaeology Section;

4.1.5. Forensic Medical-Toxicology Laboratory;

4.1.6. Forensic Medical-Histopathology Laboratory;

4.1.7. Forensic Photography Section;

4.1.8. Quality Assurance Section;

4.1.9. Confidential Document Section.

4.2. Within the Capacity Building and Research Division the following working sections shall be established:

4.2.1. Human Anatomy and forensic medicine specialization training section;

4.2.2. Forensic medicine investigation training section;

4.2.3. Accreditation and certification section

4.2.4. Research and statistics section

4.3. Within the Identification Coordination and Outreach Division the following working sections shall be established:

4.3.1. Section for investigation in Community;

4.3.2. ion and identification coordination and support section;

4.3.3. project section;

4.4.4. Section for support of families;

4.4.5. Section for intercommunication;

4.4. The Department of Forensic Medicine shall be located in Prishtinë/ Priština.

Article 5

Personnel of the Department of Forensic Medicine

1. All personnel of the Department of Forensics Medicine will be hired and dismissed in accordance to the applicable law for public servant.

Article 6
Competences and responsibilities of the Divisions

1. The competencies of the Division of Forensic Medicine shall include but is not limited to:

1.1. Maintaining authority to provide medical forensic expertise to a competent public entity.

1.2. Maintaining exclusive authority to conduct medical death investigations;

1.3. Maintaining exclusive authority to perform exhumations pursuant to the Criminal Procedure Code of Kosovo;

1.4. Maintaining exclusive authority to perform post-mortem inspections and autopsies pursuant to the Criminal Procedure Code of Kosovo, and examination of victims of criminal offences against life and body pursuant to Criminal Code of Kosovo;

1.5. Maintaining exclusive authority to determine the sex, race, stature, age, and cause of death of the mortal remains of an unidentified person, whenever possible;

1.6. Performing an autopsy and/or anthropological biological profile and issue a report in the case of mortal remains discovered in foreign jurisdictions and transported to the Republic of Kosovo;

1.7. Maintaining exclusive authority to co-ordinate and conduct clinical examinations on victims, witnesses, and alleged perpetrators of crimes against sexual integrity pursuant to the Criminal Code of Kosovo;

1.8. Requesting medical documents pertaining to the victim and/or accused of crimes against sexual integrity and crimes against life and body pursuant to the Criminal Code of Kosovo;

1.9. Collecting or examining evidence from victims, dead bodies, witnesses, or accused of crimes against sexual integrity and crimes against life and body pursuant to the Criminal Code of Kosovo.

2. The competences of the Division of Capacity Building and Research shall include, but not be limited to:

2.1. train and qualify forensic medical practitioners, forensic nurses, medical death investigators, forensic laboratory technicians, forensic photographers, forensic technical assistances, forensic identification officers, histopathology technicians, and autopsy technicians;

2.2. teach undergraduate and post-graduate students human anatomy and forensic medicine;

2.3. maintain documents on standard operating procedures, inspection records, and chain of custody.

3. The competences of the Identification, Coordination and Outreach Division shall include, but not be limited to:

- 3.1. collect and manage information regarding the whereabouts of missing persons and possible gravesites;
- 3.2. visit the families of missing persons to collect information regarding the missing person;
- 3.3. establish the missing person's identity with all available means;
- 3.4. return the identified mortal remains to the missing person's families and/or arrange reburials, when necessary;
- 3.5. coordinate communications with the families of the missing persons and liaising with national or international organizations or institutions;
- 3.6. provide information from the databases to the Functional Commission of the Assembly;
- 3.7. issue identification certificates;
- 3.8. return missing person's personal effects to the families with signed checklist.

Article 7 Transitional Provisions

The personnel, allocated budget, assets, archives, databases and other equipment of the Institute for Forensics Medicine of the Ministry of Health shall be transferred from the Ministry of Health to the Ministry of Justice.

Article 8 EULEX Provisions

1. For the duration of the EULEX Mission in Kosovo, the EULEX experts at the Department of Forensic Medicine shall monitor, mentor and advise the local experts at the Department, while working in mixed teams.

2. The EULEX experts shall work closely with the local authorities to develop the local capacity and to ensure that the Department of Forensic Medicine have enough well trained experts capable of providing forensic expertise meeting the international standards and European best practices:

- 2.1. The EULEX experts shall conduct all forensic examinations including autopsies in mixed teams with local forensic experts.

2.2. The EULEX experts at the Department of Forensic Medicine shall participate in any type of forensic examinations, including autopsies in all cases where a EULEX Prosecutor has been assigned to the criminal proceedings in accordance with Art. 8 of the Law on Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo and in all cases where an EULEX Judge has been assigned to the criminal proceedings pursuant to Arts. 3 and 4 of the Law on Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo.

3. The EULEX Mission staff members will be co-located within the premises of the Department of Forensic Medicine.

3.1. The EULEX Mission in Kosovo will appoint a EULEX Co-head of the Department of Forensic Medicine who will be responsible together with the local Director of the Department of Forensic Medicine for providing policy guidance, and strategy development in the area of the Forensic Medicine.

3.2. The EULEX Co-head of the Department of Forensic Medicine shall be responsible for the management of the EULEX staff deployed at the Department of Forensic Medicine.

3.3. The operational management, division of labour and composition of mixed teams will be regulated with an Arrangement between the EULEX Co-head of the Department of Forensic Medicine and of the local Director of the Department of Forensic Medicine.

Article 9 Abrogation

This Law abrogates all legal provisions that are in contradiction to this law.

Article 10 Sub legal Acts

Subsidiary legal acts for the full implementation of this law shall be issued by the Ministry of Justice in terms of six (6) months from the day this law enters into force.

Article 11
Entering into Force

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

Law No. 03/L-137
25 June 2009

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI