



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

Law No.04/L-072

ON STATE BORDER CONTROL AND SURVEILLANCE

Assembly of Republic of Kosovo;

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

Approves

LAW ON STATE BORDER CONTROL AND SURVEILLANCE

CHAPTER I
GENERAL PROVISIONS

Article 1
The purpose

With this Law there is regulated the border control, police powers inside the state, cooperation between state bodies which have competence in border management.

Article 2
Border control

1. Border control includes border control and surveillance, analysis of threats and risks to national security and that could affect the security of the border and is carried out in order to:

- 1.1. prevent and detect the criminal offences and minor offences and to detect and apprehend their perpetrators;
- 1.2. prevent and detect the illegal migration and human trafficking;
- 1.3. protect life, health of people, personal safety, property, environment and nature; and
- 1.4. prevent and detect other risks to public order, legal order, national security and international relations.

Article 3 **Understanding the specific expressions**

1. Terms used in this law shall have the following meaning:
 - 1.1. **Borderline** - the range of point of the earth's surface defined by coordinates, in which lies the state limit which defines the territory of Kosovo from the territory of neighboring states;
 - 1.2. **State Border** - the line which separates the territory by land, water, underground, the airspace of the Republic of Kosovo with neighboring countries, as well as the state border in the area of the border crossing points at airports, through which interstate and international traffic is carried;
 - 1.3. **Border control** - control performed at border crossing points to ensure that persons, goods and means of transportation are authorized to enter the territory of Kosovo or leave the Republic of Kosovo;
 - 1.4. **Border Surveillance** – surveillance of border between crossing points and surveillance of border crossing points outside the specified working hours in order to prevent avoidance, respectively avoidance of the border control;
 - 1.5. **Border crossing points** - places designated by the competent state authorities for state border crossing, on the road traffic, rail, air;
 - 1.6. **Border crossing points zone** - the space which is necessary for the performance of border controls and other border formalities, and direct surroundings with facilities that are needed for the development of safe and unimpeded traffic, border controls and other border formalities;
 - 1.7. **Border Management** - the activities and measures undertaken by state authorities which are authorized in border management in accordance with relevant laws;

1.8. **Threat to public health** - any disease with the potential to switch to pandemic as defined in the International Health Regulations of the World Health Organization and other infectious diseases or illnesses caused by parasites, if they are subject of protective provisions which apply to citizens of the Republic of Kosovo;

1.9. **Operator** - a natural person or legal entity, owner or user of the airport or aerodrome (airport operator) and natural or legal person who supplies via the rail transport (rail operator);

1.10. **Control in the second line** - the further control which will be carried out in the special place outside the place where all other passengers are checked;

1.11. **Airline carrier** - any natural or legal person whose job is to provide transportation of passengers in air traffic.

Article 4 **The scope of the law**

This law applies to all persons who cross the state border of the Republic of Kosovo, without hereby jeopardizing the rights of refugees and persons seeking international protection, particularly in relation to the principle of non refoulement.

CHAPTER II **COMPETENCIES AND AUTHORIZATIONS IN CONDUCTING** **BORDER CONTROL**

Article 5 **The body that carries out border control**

1. Border control is in the competence of the Ministry of Internal Affairs (hereinafter: Ministry).

2. Duties dealing with border control are performed by the border police within the police of the Republic of Kosovo (hereinafter as: border police).

Article 6
Personnel, equipment and tools for exercise of border control

To exercise effective border control, unified and at the top level should be deployed sufficient number of border police officers and to provide sufficient tools and equipment.

Article 7
Authorizations

1. During the performance of border control border police officers work in accordance with the powers set out in this laws or other legislation.
2. Authorizations from the paragraph 1 of this Article, border police officers apply to the entire territory of the Republic of Kosovo.

Article 8
Respect of human dignity

1. During the performance of border control border police officers are obliged to fully respect human dignity.
2. Authorizations that border police officers undertake in the performance of border control should be proportionate to the purpose for which they are taken.
3. During the performance of border control border police officers can not discriminate on gender, ethnicity or race, colour, age, social origin, religious belief, disability or sexual determination, property and social position.

CHAPTER III
STATE BORDER CROSSING

Article 9
State border crossing

1. State border, can be crossed only at border crossing points, within their official working hours. Working hours at border points which do not work twenty-four (24) hours must be readable and clear, published in a visible place.
2. With the exception of paragraph 1 of this Article, state border may be crossed outside the border points and over hours of working schedule:

- 2.1. by persons or groups of persons when there is a requirement of a special nature and when is not contrary to the interests of public order and national security of the Republic of Kosovo; and
 - 2.2. by individuals and groups of persons in case of disaster or of an unforeseen emergency situation.
3. Permits under paragraph 2 of this Article are issued by the Ministry and has the validity of up to one (1) year.
 4. The person who intends to cross the state border on the way defined in paragraph 2 of this Article is obliged that without delay to notify the police.

CHAPTER IV BORDER CONTROL

Article 10 Place of performance of border control

1. Border control is carried out in the area of border crossing point.
2. Border control may be performed also outside the border crossing point on the train, flying aircraft, or another location.
3. With the exception of paragraphs 1 and 2 of this Article in accordance with international agreements, border controls can be performed also in the territory of the neighbouring state.

Article 11 Facilitation of performing the border control

1. A person who intends to cross the state border or has already crossed the border line, is obliged to provide valid travel document or other document designated for crossing the state border, to enable performing border control and must not leave the area of the border crossing point until all necessary formalities are completed, including vehicle inspections and transportation means, owned by the person who crosses the border.
2. The person from paragraph 1 of this Article is obliged that at the request of the border police officer who carries out border control to provide information for all circumstances regarding the fulfillment of the conditions for crossing state border and act according to the instructions and orders of the border police officer.

Article 12
Border control of persons

1. Border police officer in the performance of border control on persons, is authorized:
 - 1.1. to require for valid travel document or other document designated for crossing state border, to determine the identity of the person who intends to cross the state border;
 - 1.2. to check whether the conditions for entry and exit from the Republic of Kosovo are fulfilled, as defined by law, to give instructions and orders for the purpose of carrying out rapid and unimpeded border control;
 - 1.3. if there exist indications, respectively suspicion for a criminal offense or minor offenses committed, to carry out border control in the second line, which means the control or raiding of the person, items and the vehicle he possesses;
 - 1.4. to check the validity of the travel document, respectively any other document designated for crossing state border;
 - 1.5. to conduct controls of fingerprint and palm trace and of other biometric data in the relevant evidences, to perform operational control records (required) and other records and electronic data bases of people, objects and means of transportation.

Article 13
Types of border control

Border controls are carried out as detailed and minimal border controls.

Article 14
Minimal border controls

1. Minimal border control are conducted to all persons who cross the state border in order to control and determine their identity on the basis of the travel document or other document determined for crossing state border.
2. Minimal border controls from paragraph 1 of this Article consist of a rapid and normal control with the assistance of relevant technical equipment and with control on relevant evidences and on the electronic database. This control is conducted with the aim of verifying the travel document, respectively the other document designated for crossing state border is stolen, misused, lost or invalid, to check its validity, and to control the presence of signs that indicate abuse, forgery or modification of the document.

Article 15
Detailed border control

1. Detailed border control during entry consists of the control of fulfilling conditions for entry into the territory of the Republic of Kosovo, as well as:

1.1. verification of the validity of travel document, respectively any other document designated for crossing state border and check its validity, and the control whether it, if necessary, regarding the possession of necessary visa or residence permit;

1.2. examination of travel document, respectively of any other document designated for crossing border control for the detection of signs of falsification or modification;

1.3. review of square seals which are placed during the entry and departure in the travel document in order to determine, by comparison of dates of entry and departures, that the person has not exceeded the length allowed to stay in the territory of the Republic of Kosovo;

1.4. ascertainment of country of growth and destination and the purpose of residence of the person and if necessary the control of additional relevant documents;

1.5. ascertainment if the person has sufficient money for maintenance during and for the purpose of his stay, as well as his return to the place from which he comes or transit to the country in which probably will be accepted;

1.6. ascertainment that the foreign national, his means of transports or items that he carries do no risk the public order, national security, public health or public relations of the Republic of Kosovo with other countries.

2. Detailed border control during departure consist of:

2.1. ascertainment if the foreigner possess a valid travel document or any other document designated for crossing state border;

2.2. verification of the travel document, respectively of the other document designated for crossing state border to detect signs of forgery or modification;

2.3. the ascertainment that the national of the third country is not considered to be a danger to public order, national security and international relations.

3. Except control under paragraph 2 of this article detailed border controls during departure should also contain:

- 3.1. ascertainment if the person possesses a valid visa to travel to another country, unless such person possesses a valid residence permit;
 - 3.2. ascertainment if the person has not exceeded the length of the permitted stay in the territory of the Republic of Kosovo;
 - 3.3. control in electronic data bases.
4. At the border points where conditions allow it and if the person requests so, detailed border control are implemented in a specific local.
 5. Persons to whom are performed detailed border controls should be realized, on the second line they should be informed about the purpose and procedure of that control, and they can request and obtain the name and last name and registry number of the border police officer who performs detailed border control, name of the border point and date of the last border crossing.

Article 16

Facilitation of border control

1. Border controls can be performed on a reduce capacity due to extraordinary and unexpected circumstances.
2. As extraordinary and unexpected circumstances on paragraph 1 of this Article are considered to be those unforeseen occurrences which bring such a traffic intensity, where waiting time at the border point lasts excessively despite usage of all the possibilities and potential human, technical and organizational resource.
3. In the case of border control in paragraph 1 of this Article, border control during the entry into the Republic of Kosovo have priority before border control during the departure from the Republic of Kosovo.
4. For facilitation of border controls decides the border police officer who manages the border crossing point.
5. Facilitation of border control is temporary, is set gradually and corresponds to the reasonable circumstances
6. In carrying out border control in paragraph 1 of this Article border police officer sets the square stamp on travel documents of nationals of third countries during the entry and departure from the Republic of Kosovo.

Article 17
Placing the square stamp

1. The border police officer in the performance of border control for foreigner citizens necessarily sets the square stamp on their travel document during the entry and departure from the Republic of Kosovo.
2. The border police officer does not set square stamp during entry and departure from the Republic of Kosovo on:
 - 2.1. travel documents of heads of state, and members of their delegation whose arrival is announced officially on diplomatic way;
 - 2.2. pilots licenses or certificates the their crew members; and
 - 2.3 in local flight permits.
3. With the exception of paragraph 1 of this Article, with the request of third country nationals, he can be released from placement of the square stamp during the entry and departure from the Republic of Kosovo, if placing it, can create serious difficulties for the person. In this case the entry or departure must be written on separate sheet of paper on which is written the name and the last name of the person and number of the travel document or any other document designated for crossing state border and the copy of a sheet will be given to the person.

Article 18
Entry of members of foreign security bodies in the Republic of Kosovo

1. In the Republic of Kosovo can enter members of foreign security bodies with uniform with firearms, equipment and vehicle that are marked with their signs in accordance with international agreement.
2. Cases of paragraph 1 of this Article are not related to the entry, residence or transfer of foreign armed forces in the territory of the Republic of Kosovo for acting activities, training and participation in peacekeeping and humanitarian operations in accordance with the legislation in force.
3. Members of foreign security bodies and military who with the invitation of the state institutions are on an official visit, as members of delegation can enter on the Republic of Kosovo even without a special permission, to wear a uniform and short firearm, whether it is an integral part of their uniform, with written notice, preliminary to the Ministry.
4. Members of foreign security bodies who directly provide close protection to the representative of the foreign country and organization or international institution during the official visit or lawful stay in the Republic of Kosovo may possess and carry firearms,

ammunition and equipment on the basis of a written permit issued by the Ministry.

5. In the case of transit through the territory of Kosovo of members of foreign security authority, for the transfer of arms, ammunition and equipment is needed permission from paragraph 4 of this Article.

Article 19 **Ways of performing border control on road traffic**

1. In carrying out border control on road traffic and the persons who cross the state border with the vehicle, as a rule, have to stay on the vehicle while the controls are being carried out.

2. With the exception of paragraph 1 of this Article, if circumstances require so, from the people can be asked to leave the vehicle and to show items that are in themselves or in the vehicle and carry out their control in order to find banned items.

3. Border police officers are authorized to perform control of the means of transport, including the dismantling of its individual parts without court order if there are grounds for suspicion that the person who drives the vehicle carries banned substance, as well as objects and documents that will assist in determining his identity or the identity of the other passengers in the vehicle, and because of the obstruction of illegal crossing of state border.

Article 20 **Presence during the inspection or the raid**

The owner of transport vehicle, the owner of items, respectively the person who owns or uses them is entitled to be present during the control or search of the conveyer vehicle.

Article 21 **Action in accordance with another law**

If border police officer during the control or the raid of the person, items or transport vehicle finds items that under the provisions of the Code of Criminal Procedure and the Law in force for a minor should be seized, or items that are necessary for the conduct of criminal proceedings or offender, the procedure will be continued in accordance with legislation in force.

Article 22 **Place of performance of border controls on air traffic**

1. Border control on air traffic, as a rule, are not carried in the airplane, at the departure

from the airplane, or in the entrance, respectively exit from passenger terminal, unless justified on the basis of risk assessment related to national security and illegal migration.

2. In order to ensure that the airports designated as border crossing points, control are carried out in accordance with legislation in force. The airport operator shall take all necessary measures to guide passengers in areas intended to carry out border control.

3. The airport operator is obliged to take all necessary measures to prevent the unauthorized persons to enter or leave the restricted security area.

4. Border control, by rule, are not performed in the transit area, unless justified on the basis of risk assessment related to national security and illegal migration.

5. Border control in the transit zone of paragraph 4 of this Article can be carried for persons who need to possess the airport transit visa in order to be controlled if they possess a transit visa.

Article 23 **Border control on private flight**

Captain, respectively the leader of the aircraft that performs private flight, who flies from another country or to another country, before the flight, must submit a general statement consisting of flight plan in accordance with Annex 2 of Convention on International Civil Aviation, as well as information relating to the identity of travellers.

Article 24 **Obligation of the airline carriers for submitting information about travelers**

1. Airline carriers, upon the request of the police station responsible for border control, with the aim of facilitating the border control, by the end of the presentation of passengers must submit information relating to travelers that they carry to the border crossing point through which they will enter into the territory of the Republic of Kosovo.

2. Information from paragraph 1 of this article contains the following data:

2.1. number and type of travel document or other valid document for crossing the state border;

2.2. nationality;

2.3. name and last name;

2.4. birthday;

- 2.5. border crossing point for entrance into the territory of the Republic of Kosovo;
 - 2.6. flight number;
 - 2.7. time of departure and arrival of transport;
 - 2.8. total number of passengers;
 - 2.9. accompanying document for goods; and
 - 2.10. initial point of departure.
3. Data from paragraph 2 of this Article are sent via electronic means or in case of failures in other appropriate ways

Article 25

Rail way border control

1. Border control for railway traffic shall be conducted in the area of border crossing point for railway traffic.
2. Border crossing control shall be conducted to persons travelling by train and to official railway staff.
3. In case it is not possible to conduct border control in a border crossing point for railway traffic, border control may be conducted on board the train, during movement.
4. Border police officer if necessary, may order the hidden cavities of carriages to be inspected with the assistance of the train inspector, to ensure that persons or objects subject to border control are not concealed in them.
5. Train machinist, in international traffic, can not stop the train between border and border crossing point, except on the cases when such action is necessary, because of regulating the railway traffic or in case of any major force.
6. In case of stopping in this area, the machinist shall immediately notify the nearest police, and take emergency measures to prevent passengers from leaving the train.

Article 26
Categories of persons to whom there are applied special rules during the performance of border control

1. In carrying out border control, special rules apply to the categories of persons as following:

- 1.1. heads of states and members of their delegation;
- 1.2. pilots and their crew members;
- 1.3. holders of diplomatic passports or official and members of international organizations;
- 1.4. trans boundary workers;
- 1.5. minors; and
- 1.6. holders of permits for local border traffic.

CHAPTER V
BORDER CROSSING POINT AND BORDER CROSSING AREA

Article 27
Determination and categorization of border crossing point

Border crossing points, work schedule and volume of usage and categorization of border crossing points, defines the Government of the Republic of Kosovo.

Article 28
Temporary border point

1. With the exception of Article 27 of this Law, in accordance with the Ministry of Finance and the competent body of the neighbouring state, with decision could establish a temporary border crossing points, if this is necessary for carrying the short-term activities, such as:

- 1.1. activities and cultural events, professional, scientific, sport and tourism;
- 1.2. measures on reorientation of traffic;
- 1.3. implementation of activities arising from international ratified agreements;

1.4. agricultural and economic activities; and

1.5. other public interest work.

2. Temporary border crossing points can be determined for the period up to six (6) months during a calendar year, while for cases under sub-paragraph 1.4 and 1.5 of paragraph 1 of this Article during the duration of those activities, respectively in the period until there is public interest.

3. In the decision under paragraph 1 of this Article is determined working time, the volume of use of border crossing point, ways of crossing the state border, the necessary conditions for state border crossing and expenses for determining the temporary border point.

Article 29

Zone of border crossing point

1. The zone of the border crossing point is assigned by the Ministry in consultation with the Ministry of Finance.

2. In joint border crossing points with the neighbouring country, area of the border crossing point is determined in accordance with international agreements.

Article 30

Marking of the border crossing point and its zone

1. Border crossing and its area are marked with border tables, signs and other signs.

2. Border tables, signs and the other alert from paragraph 1 of this Article, with the proposal of the Ministry, are set and maintained by the competent Ministry for Infrastructure.

3. With the exception of paragraph 2 of this Article, border tables, signs and the other alert of the border crossing point and its area in airports, and rail traffic, with the proposal of the Ministry, are set and maintained by the operator.

Article 31

Terms for construction and regulation

1. Buildings which are used by the Ministry in the border crossing point should be planned, constructed and regulated in order to allow safe, unimpeded and economic execution of border control in accordance with international standards and laws that establishes the Government of Kosovo.

2. The operator is obligated to provide appropriate working conditions, space and facilities that will provide smooth execution of border control in accordance with the provisions of this law.
3. The operator of airports, where the international traffic is carried, must be obliged to create conditions for accommodation of foreigners who do not fulfill the conditions for entry into the Republic of Kosovo, as well as passengers who transit through the territory of the Republic of Kosovo.
4. Costs for providing the conditions and standards of paragraphs 1, 2 and 3 of this Article and Article 22 of this Law are charged to the operator.
5. Mutual relations between the operators and the competent state bodies regarding the use of premises and facilities dedicated for conducting border control are regulated by agreement.

Article 32
Construction and installation of new buildings and change of the activity in the area of border crossing point

1. Construction and placement of objects and change of activity in the area of border crossing points that must not obstruct the performance of implementation of border controls and implementing security measures at border.
2. The undertaker of the activity in the area of border crossing point is obliged to carry the activity on the relevant locals intended for that purpose.
3. The investor or owner of the facility, respectively the perpetrator of the activity is obliged that before the start of construction activities, placement of objects or change of activities to obtain permission from the Ministry.
4. Permit under paragraph 3 of this Article shall not be issued, if with object or activity is prevented the commission of uninterrupted border controls and implementation of security measures at state border and if are not in accordance with the urban plan for the respective border crossing point.

Article 33
Movement and residence in the area of border crossing point

1. At the area of border crossing point movement and stay of the persons, vehicle and goods is allowed that will undergo the border control as well as persons or transportation means that have state authority authorization.
2. Passengers and other person, who are in the area of the border crossing point, are

obligated to obey instructions and orders of the border police officers.

Article 34
Obligations of persons who conduct activities in the area of border crossing point

1. Operator and other legal and physical entities that carry activities on the border crossing point zone are obliged to the responsible police station for border controls to submit personal information of employees before they start the work in the area of border crossing point.
2. For workers under paragraph 1 of this article, are submitted the following personal data: name and last name, personal number of the citizen, birthday, birthplace, dwelling, emplacement and citizenship.
3. Personal data of paragraph 2 of this article are saved one year from the date of termination of employment of the employee in the area of border crossing point.
4. Employees of paragraph 1 of this article, in a visible place is needed to keep the badge which contains data for first and last name, photography and dates for the name of the operator, respectively physical or legal entity to which they are employed.
5. Operators, other physical or legal entity from paragraph 1 of this article, are obliged to ensure file to their employees before the start of their work in the area of border crossing point.

CHAPTER VI
BORDER SURVEILLANCE

Article 35
The purpose border surveillance

Border surveillance is performed in order to prevent illegal state border crossing, preventing cross-border crime and taking actions against persons who have illegally crossed the border.

Article 36
Way of performing border surveillance

1. Border surveillance is performed with intention of prevention and discouragement of those persons who aim to avoid border controls at border crossing points.

2. While performing border surveillance police officers use static or mobile equipment.

Article 37

Method for carrying out border surveillance

Border surveillance is carried out by border police officers, which number and methods of operation are in conformity to the existing risks and threats.

Article 38

Units and police equipments for border surveillance

1. Border surveillance is carried out using static and mobile police units patrol or through posting in locations which are considered as illegal crossings, in order to detect and prevent people who illegally cross the border.
2. Border surveillance may also be performed by technical means, including also electronic equipment.
3. During the border surveillance operation, border police is authorized to use dog borders and put obstacles that preclude illegally crossing of state border.

Article 39

Enabling border surveillance

1. Owners, respectively agricultural land users are obliged to provide free access for border police officers to perform unimpeded border surveillance and other officials who are competent for placement and maintaining equipment and technical appliances as well maintenance of border tables and signs.
2. Border police officers, despite the provisions prescribed by other law and will of the persons mentioned in paragraph 1 of this Article, move through property and for that purpose to use all kinds of means of transport, in case it is necessary to perform all activities under paragraph 1 of this Article.

CHAPTER VII BORDER LINE

Article 40 Determination and demarcation of border

The Government of the Republic of Kosovo shall nominate members of state commission for demarcation and maintenance of state borders, established on the basis of existing international agreements.

Article 41 Border table and signalling

1. If the border line is not visible enough, near it, are set the border tables, signs and other signalling which announced the approach to the borderline.
2. Border tables, signs and other signalling from paragraph 1 of this Article, the proposal of the Ministry, are set and maintained by the Ministry of Infrastructure.
3. On border tables, signs and in other signalling is prohibited the placement of other tables, signs or signalling with which will be obscured the visibility of border tables, signs and of other signalling with which is warned for the border line.

Article 42 Prohibition of carrying out activities along the border line for security reasons

1. Ministry for security reasons can stop hunting, fishing, and declare non flight-zone the flight of flying objects and other means for flight, movement, attitude and population in depth to five hundred (500) meters from the border line in whole or in part of the state border.
2. The prohibition from the paragraph 1 of this Article is valid until there are security reasons.

Article 43 Visibility of borderline and measures for its maintenance

1. Borderline in accordance with international agreements must be cleared of trees, shrubs that reduce the visibility of border tables, signs and other signals and extent of the borderline. Responsible for maintenance of borderline is the competent Ministry for Agriculture and Forestry.

2. For borderline visibility, Ministry may prohibit the planting of certain types of agricultural crops, planting of woods and other plants along the border line.
3. Whether because of the prohibition of paragraph 2 of this article, natural or juridical persons suffer damage, they are entitled for compensation in accordance with the rules on legislation in force.

Article 44
Regulation of space along the border line

1. Urban plans to which is regulated the area of five hundred (500) meters from the border line and from the area of border point are approved with prior consent by the Ministry.
2. In case when by spatial plan is regulated the area of the border crossing point the consent is given also by the Ministry of Finance.
3. The Ministry will not grant consent for the adoption of the urban plan of paragraph 1 of this Article, if it hinders the visibility of the border.
4. Ministry of Finance will not give consent for the adoption of the urban plan of paragraph 2 of this Article, if it disrupted the implementation of the customs authority in accordance with law.

Article 45
Border Incident

1. Border incidents, according to this law, are foreign activities of state bodies in the territory of the Republic of Kosovo, that are not allowed by the international agreements or legislation of the Republic of Kosovo, conducted by officials of state bodies or local authorities of neighbouring states.
2. Ministry of Foreign Affairs in cooperation with the Ministry shall verify and resolve border incidents.

CHAPTER VIII POLICE DUTIES INSIDE THE STATE

Article 46 Police duties in interior

1. In accordance with this law, border control activities can be performed throughout the Republic of Kosovo. In order to prevent human trafficking, immigrant smuggling, illegal border crossings and to ensure the control of foreigners, border police officers are authorized to:

- 1.1. control and apply appropriate measures to discover illegal entry and stay of foreign citizens and persons in the Republic of Kosovo;
- 1.2. control of persons, items and vehicles, outside of the border crossing zone.

CHAPTER IX COOPERATION BETWEEN STATE AUTHORITIES THAT HAVE COMPETENCES IN BORDER MANAGEMENT

Article 47 Cooperation of State Bodies in the Area of Border Management

1. On conducting border control, the Ministry cooperates with other state bodies that have competencies in border management, in accordance with the law.
2. Cooperation in paragraph 1 of this Article conducted between the Ministry, Ministry of Foreign Affairs, Ministry of Finance, Food and Veterinary Agency, and other state bodies that have competences in border management.
3. State authorities in paragraph 2 of this Article of this cooperate in order to:
 - 3.1. facilitate faster movement of persons, goods and means of transport at border points;
 - 3.2. prevent and detect the trans boundary crime, collect, analyze and exchange the data and information related to border management; and
 - 3.3. implement the other forms of cooperation in accordance with the powers of state bodies established by law.

Article 48
Way of cooperation between the state bodies on the state border

1. State bodies involved in border management assist one another, and cooperate closely and continuously, aiming to achieve more efficient and effective border control.
2. The cooperation from paragraph 1 of this Article is achieved through the strategy for Integrated Border Management.

Article 49
National Centre for Border Management

1. To achieve effective coordination, facilitation of exchange of information and data and greater efficiency of the system for integrated border management, National Centre for Border Management (hereinafter: the Centre) is established.
2. In accordance with a ratified international agreement, the liaison officer of a foreign country, international organizations and other institutions can participate on the national centre's work.
3. Function, duties and responsibilities of the national centre for border management are set through sub-legal acts issued by the Government.

CHAPTER X
INTERNATIONAL POLICE COOPERATION

Article 50
International police cooperation

International police cooperation in carrying out border control includes activities of foreign police services in the territory of the Republic of Kosovo, respectively those of Kosovo Police in the territory of other countries, and cooperation with foreign security bodies and exchange of officers for connections.

Article 51
Cooperation with foreign police officers

1. Authorized Police officers from other countries can enter inside the Republic of Kosovo and perform duties foreseen by international agreements.

2. Kosovo Police officers, in accordance with international agreements in other states may perform duties as determined on the paragraph 1 of this Article.

3. Foreign police officers in the territory of Kosovo may use technical equipment and vehicles with their signs, wear uniforms, weapons and other tools to liability, in conditions and ways determined by international agreement.

Article 52

Cooperation with foreign security bodies

Ministry in accordance with international agreements cooperates with foreign security bodies in carrying out border control.

Article 53

Liaison Officer

Ministry in accordance with international agreement can send abroad liaison officers, for the performance of international police cooperation, where it sets their concrete duties and powers.

CHAPTER XI

COLLECTION OF PERSONAL DATA

Article 54

Collection, processing and use of data

1. During the performance of border control and other duties defined by this law, border police is authorized that by the persons to whom it applies the police powers, directly to collect personal data processed in the evidence, with the application of technical apparatus in accordance with this law, and to use personal data and other data from the records that are developed and maintained in accordance with other laws.

2. Border police is obliged to collect, process and use of personal data from paragraph 1 of this Article, in accordance with the rules for personal data protection.

Article 55

Use of equipment

1. Border Police have the authority during the commission of border control aiming to investigate, determine the identity and finding the perpetrators of crimes and offenses, to

do photography, video recording and surveillance, as well to apply other technical aids.

2. Technical equipment of paragraph 1 of this Article, when placed in the area of border point, must be visible and the persons, who are located in that area, must be warned for the existence of such apparatus.

3. If for the application of technical devices by paragraphs 1 and 2 of this Article are recorded personal data, is needed that these records to be destroyed within six months from the date of recording, unless if they are not necessary for the prosecution of perpetrators of crimes or offenses, in accordance with law.

Article 56 Evidence

1. In accordance with this law, border police is authorized due to border control requirements and other functions to maintain:

1.1. evidence of people and transport means undergoing border control;

1.2 evidence of persons who have been granted permission to state border crossing outside the boundaries and outside the determined overtime work at the border point;

1.3. evidence of given permits for entrance and keeping of weapons, ammunition and equipment in the Republic of Kosovo by the members of foreign security bodies;

1.4. evidence of committed border incidents;

1.5. evidence for personal data of operator's employees and other physical or legal entities who perform activities in the area of border point;

1.6. evidence of the issued visas at the border crossing points;

1.7. evidence of facilitation of border control; and

1.8. evidence for refusal of entry at the border.

Article 57 Personal data

1. In evidence from sub-paragraph 1.1 of paragraph 1 of article 56 of this law, are collected, processed and stored personal data in the following: name and surname, date of birth, information on travel document or other document designated for state border

crossing with which the person has passed the state border, photography of the person who has passed the state border, residence, nationality, place, time and direction.

2. In evidence from sub-paragraph 1.2 of paragraph 1 of article 56 of this law, are collected, processed and stored personal data in the following: name and surname, date of birth, place of birth, residence, nationality, type and number of the document, based on which the permit was given, reason for granting permission, the place of crossing the state border and validity of the permit.

3. In evidence from sub-paragraph 1.3 of paragraph 1 of article 56 of this law, are collected, processed and stored personal data in the following: name and surname, date of birth, place of birth, residence, nationality, type and number of the travel document and any other valid document to determine the state border crossing, the type of weapons, equipment and number of ammunitions.

4. In evidence from sub-paragraph 1.4 of paragraph 1 of article 56 of this law, are collected, processed and stored personal data in the following: name and surname, date of birth, place of birth, residence, time, place and manner of conducting border incident, type, number and validity of documents pursuant to which identity is defined.

5. In evidence from sub-paragraph 1.5 of paragraph 1 of article 56 of this law, are collected, processed and stored personal data in the following: name and surname, date of birth, place of birth or residence, nationality, date of commencement and termination of work in the area of border point, name of operator and other legal or physical entity to which the person is employed.

6. In evidence from sub-paragraph 1.6 of paragraph 1 of article 56 of this law, the following personal data are collected, processed and stored such as: name and surname, date of birth, place of birth or residence, nationality, type and duration of the visa.

7. At the records from sub-paragraph 1.7 of paragraph 1 of article 56 of this law, personal data's are collected, analyzed and stored as in following: name of thee border crossing point which is a subject to border control facilitation, time when it has started and when it has ended the facilitation of the border control, reason for its appliance and details of the officers that has ordered the facilitation of the border control.

8. At the records from sub-paragraph 1.8 of paragraph 1 of article 56 of this law personal data's are collected , analyzed and stored as in following: date of birth, name and surname, place of birth, permanent of temporary residence, citizenship type and duration of the visa(if for entry is required visa), last starting point towards the Republic of Kosovo, reasons for refusal, border crossing point that maybe the refusal, ban for entry, if applicable, and details of the officials who gave the refusal order.

9. Personal data from the records of paragraph 1 of this article are saved five (5) years from the date of recording.

10. Personal data from the evidence from paragraph 2 of this article are stored two (2) years after the passage of time for which the permit is granted.

11. Personal data from the evidence from paragraph 3 of this article are stored three (3) years from the date of entry realized in the territory of Kosovo.

12. Personal data from the evidence from paragraph 4 of this article are stored for five (5) years from the date of the performance of border incident.

13. Personal data from the evidence from paragraph 5 of this article are stored two (2) years from the date of termination of employment in the area of border point.

14. Personal data from the evidence in paragraph 6 of this article are stored five (5) years from the issuance of the visa at the border.

15. Personal data's from records of paragraph 7 and 8 of this article will be stored for two (2) years from the day of implementation of facilitation of the border control respectively from the refusal on entry.

Article 58 **Supervision of personal data processing**

The Agency for Personal Data Protection performs supervision of the processing of personal data and their protection defined by this law.

CHAPTER XII **MINOR OFFENCE PROVISIONS**

Article 59

1. With a fine in amount of five hundred (500) to eight hundred (800) Euro the sentence for minor offence will be imposed to a physical person who:

1.1. would cross or would attempt to cross the state border outside the border point and during non-working hours of border point (paragraph 1 of article 9 of this Law);

1.2. would cross or would attempt to cross the state border contrary to the provision for crossing border (paragraph 3 of article 10 of this Law);

1.3. during the border control does not provide for sight a valid travel document or any other document designated for state border crossing, does not enable to be

conducted border controls and leaves the area of border point before are conducted necessary formalities including transport vehicle controls and objects in its possession (paragraph 1 of article 11 of this Law);

1.4. captain of private flying object, respectively the aircraft used for personal transportation, which flies from another country or to another country, before the flight does not submit a general statement at the police station for border controls consisting of flight plan in accordance with Annex 2 of the Convention on International Civil Aviation, and information relating to the identity of travelers (article 23 of this Law); and

1.5. hunts, fishes, flies with aircraft and other equipments for flight, moves, stands and is placed along the boundary line in the whole or a part of the border, if prohibited (paragraph 1 of Article 42 of this Law).

Article 60

1. With a fine in amount of one hundred (100) to five hundred (500) Euro the sentence for minor offence will be imposed to a physical person:

1.1. who will act in contravention with paragraph 4 of Article 9 of this law;

1.2. who would not give notice to all the circumstances relating to the fulfillment of conditions for state border crossing, does not comply with warnings and orders of the police officer who carry border controls (paragraph 2 of Article 11 of this Law);

1.3. to the machinist who in an international traffic would stop the train at the railway between the border line and area of border crossing point, unless it is necessary to regulate rail traffic or in case of a majeure force (paragraph 5 of article 25 of this Law);

1.4. to the machinist will not take the measures necessary for the purpose of disabling the passenger leaving the train, respectively disabling the entry of persons to train and for the stop of the train does not notify the police (paragraph 6 of article 25 of this Law);

1.5. who does not conduct its activity at the relevant locations for this purpose on the border point zone (paragraph 2 of Article 32 of this Law);

1.6 who did not secure the permit from the ministry before starting constructing activities, placement of objects or modification of the activity on the border point zone (paragraph 3 of Article 32 of this Law);

1.7. which moves or stays in the area of border point without an intent to pass the border or already has passed and it is not held at the border point due to border control or has reasonable grounds for this (paragraph 1 of article 33 of this Law);

1.8. who at the area of border crossing point does not comply with instructions and orders of police officers (paragraph 2 of Article 33 of this Law);

1.9. who won't submit employees personal data to the responsible police station for border control, before the employees start working on the border crossing point zone (paragraph 1 of Article 34 of this Law);

1.10. employees at the operator and other legal and physical persons who carry activities at the area of border crossing point, in conspicuous places do not carry badge which contains data on first and last name, photographs and details of the name of the operator, respectively physical or legal person to whom are employed (paragraph 4 of article 34 of this Law);

1.11. who conducts activities at the border crossing point zone, without providing employees with ID Cards before they start working at the border crossing point zone, and doesn't cover the expenses for their production (paragraph 5 of Article 34 of this Law);

1.12. who will not enable free passage of police officers for performing unimpeded border surveillance and other officials responsible for the establishment and maintenance of technical devices and maintenance of border signs and signs (paragraph 1 of Article 39 of this Law);

1.13. who on the border tables, signs and other signal sets other tables, signs or signalization which would decrease the visibility of border tables, signs and other signals that warn the border line (paragraph 3 of article 41 of this Law);

1.14. who plants specific types of agricultural plants , or plants trees along the border line when prohibited (paragraph 2 of Article 43 of this Law).

Article 61

1. With a fine of one thousand (1000) up to two thousand and five hundred (2 500) Euro will be imposed the penalty for minor offense to the legal person:

1.1. machinist who on the international traffic shall stop the train at the railway between the border line and area of border crossing point, unless it is necessary to regulate the rail traffic or in case of a majeure force (paragraph 5 of article 25 of this Law);

1.2. machinist who would not stop the train that has passed the state border, in

- the open railway outside the area of border point, or after leaving the area of border crossing point before the state control and will not take the measures necessary for the purpose of preventing the passenger to leave the train, respectively preventing the entry of persons to train and for the stop of the train does not notify the police (paragraph 6 of article 25 of this Law);
- 1.3. which does not comply with paragraph 2 and 3 of article 31 of this law;
 - 1.4. who during the construction or placement of objects, as well as during the modification of activity in the area of border point disables border controls and the implementation of the security measures in state border, without the permission of the Ministry, initiates constructing, placement of objects and the rededication of the activity in the area of border point (paragraphs 1 and 3 of article 32 of this Law);
 - 1.5. who the activity in the area of border crossing point does not carry at the relevant premises designated for this purpose (paragraph 2 of article 32 of this Law);
 - 1.6. who will not submit personal information for employees, before they start work in the area of border point to the police station responsible for border crossing control (paragraph 1 of article 34 of this Law);
 - 1.7. who at border point area carries on activities, and does not provide badge for the employees before beginning their work in the area of border crossing point and does not bear the costs for their processing (paragraph 5 of article 34 of this Law);
 - 1.8. who would not allow mandatory passage of police officers to commit unimpeded border supervision and other officials responsible for establishing and maintaining the technical means and devices and maintenance of border borders and signs (paragraph 1 of article 39 of this Law);
 - 1.9. worker who hunts, fishes, flies with flying objects and other equipments for flight, moves, stands and is placed along the border line in the whole or a part of the border, whether it is prohibited (paragraph 1 of article 42 of this Law);
 - 1.10. who sow certain types of agricultural crops or sow trees or other plants along the border line when it is prohibited (paragraph 2 of article 43 of this Law).
2. Fine of five hundred (500) to eight hundred (800) Euro shall be imposed to the responsible person on legal person for the actions in paragraph 1 of this Article.

Article 62

1. With a fine of three thousand (3 000) to five thousand (5 000) Euro will be imposed the penalty for offense to the physical person and legal person who with his fault with the request of the responsible police station for border control by the end of the presentation of passengers does not submit information relating to passengers who are carried to the determined border point, through which they will enter in the territory of the Republic of Kosovo, or submit incomplete or false data (Article 24 of this Law).
2. With a fine of three thousand (3 000) to five thousand (5 000) Euro will be imposed the penalty to the responsible person on the legal person for the actions in paragraph 1 of this Article.

CHAPTER XIII TRANSITIONAL AND FINAL PROVISIONS

Article 63

Abrogation and application and adoption of sub-legal acts

1. By entering into force of this law, any other provision in contradiction with this law shall be abrogated, as well as:
 - 1.1. Law no. 03/L-065 on Integrated Management and Control of the State Border; and
 - 1.2. Government Administrative Instruction no.06/2010 on Border Control Exercise;
2. Up to approval of sub-legal acts to implement this law, provided that this is not in violation with this law, the following sub-legal acts will continue to be implemented:
 - 2.1. Government Administrative Instruction no. 03/2010 on Marking the Border Line;
 - 2.2. Government Administrative Instruction no. 04/2010 on Border Incidents;
 - 2.3. Government Administrative Instruction no. 05/2010 on the Construction of Buildings within the Border Crossing Zones;
 - 2.4. Government Administrative Instruction no. 07/2010 on Categorization of Border Crossing Points;

- 2.5. Government Administrative Instruction no. 08/2010 on Form, Content, and Manner of Placing of Warning and Written Signs on Border Crossing Points and Border Crossing Zone;
- 2.6. Government Administrative Instruction no. 09/2010 on Prohibition, Limitation or Conditioning of Certain Activities along the State Border.
3. Ministry in cooperation with other relevant state authorities adopt sub-legal acts for implementation of this law.

Article 64
Entry into force

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

Law No. 04/L-072
21 December 2011

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI