



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

Law No. 04/L-099

**ON AMENDING AND SUPPLEMENTING CUSTOMS AND EXCISE
CODE IN KOSOVO No. 03/L-109**

Assembly of Republic of Kosovo;

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

Approves

**LAW ON AMENDING AND SUPPLEMENTING CUSTOMS AND EXCISE
CODE IN KOSOVO No. 03/L-109**

Article 1

After Article 1 of the basic Law there is added a new Article 1.A with the following text:

**1.A
Purpose**

The purpose of this Law is supplementing and amending Customs and Excise Code in Kosovo No. 03/L-109, by procedures of the authorized economic operators, procedures lodging the summary declaration, risk assessment, complaint procedures and administrative offences.

Article 2

Article 6 of the basic Law, paragraph 2 the sentence “a representative from Human Rights and Freedom and a Judge” shall be deleted, while other part of the text shall remain unchanged.

Article 3

After Article 10 of the basic Law there is added a new Article 10.A with the following text:

Article 10.A Authorized economic operators

1. Customs, if necessary following consultation with other competent authorities, shall grant, subject to the criteria provided for in paragraph 2 of this Article, the status of authorized economic operator to any economic operator established in the customs territory of the Kosovo. An authorized economic operator shall benefit facilitations with regard to customs controls relating to security and safety and/or from simplifications provided for under the customs rules. The status of authorized economic operator shall, subject to the rules and conditions laid down in paragraph 2 of this Article, be recognized by the customs, without prejudice to customs controls. Customs shall, on the basis of the recognition of the status of authorized economic operator and provided that the requirements relating to a specific type of simplification provided for in customs legislation are fulfilled, authorize the operator to benefit from that simplification.

2. The criteria for granting the status of authorized economic operator shall include:

- a) compliance of records with customs requirements;
- b) a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;
- c) where appropriate, proven financial solvency; and
- d) where applicable, appropriate security and safety standards.

3. Procedures shall be implemented to determine these rules:

- a) for granting the status of authorized economic operator;
- b) for granting authorizations for the use of simplifications;
- c) for the opportunity of establishing the competent customs office for granting such status and authorization;

d) for the type and extent of facilitations that may be granted in respect of customs controls relating to security, taking into account the rules for common risk management;

e) for consultation with, and provision of information to other customs authorities;

4. The conditions under which:

a) the status of authorized economic operator may be suspended or withdrawn, and

b) the requirement of being established in the customs territory of Kosovo may be waived for specific categories of authorized economic operator, taking into account, in particular, international agreements.

5. The Director General of Customs shall issue sub-legal act for implementation of this Article.

Article 4

Article 11 of the basic Law, after paragraph 5 there is added paragraph 6 with the following text:

6. Director General of Customs in consultation with Minister of Finance shall issue Administrative Instruction for the implementation of Article 11 of Customs and Excise Code in Kosovo.

Article 5

After Article 10 of the basic Law there are added three new Articles 41.A, 41.B and 41.C with the following text:

Article 41.A

1. Goods brought into the customs territory of the Kosovo shall be covered by a summary declaration, with the exception of goods carried on means of transport only passing through the airspace of the customs territory without a stop within this territory.

2. The summary declaration shall be lodged at the customs office of entry. Customs may allow the summary declaration to be lodged at another customs office, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of entry. Customs may accept, instead of the lodging of the summary declaration, the lodging of a notification and access to the summary declaration data in the economic operator's computer system.

3. The summary declaration shall be lodged before the goods are brought into the customs territory of the Kosovo.

4. Ministry of Finance through the sub-legal act for the implementation of Customs and Excise Code with changes will be used to establish:

- a) the time limit by which the summary declaration is to be lodged before the goods are brought into the customs territory of the Kosovo;
- b) exception from rules and variations of the time limit referred to in the first point; and
- c) the conditions under which the requirement for a summary declaration may be withdrawn or adapted, in accordance with the specific circumstances and for particular types of goods traffic, modes of transport and economic operators and where international agreements provide for special security arrangements.

Article 41.B

1. The procedure foreseen in Article 41A of this Law shall be used to establish a common determined data and format for the summary declaration, containing the particulars necessary data for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using, where appropriate, international standards and commercial practices.

2. The summary declaration shall be made using a data processing technique. Commercial, transport information may be used, provided that it contains the necessary particulars. Customs may accept paper-based summary declarations in exceptional circumstances, provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.

3. The summary declaration shall be lodged by the person who brings the goods, or who assumes responsibility for the carriage of the goods into the customs territory of the Kosovo.

4. Notwithstanding the obligation of the person referred to in paragraph 3 of this Article, the summary declaration may be lodged instead by:

- a) the person in whose name the person referred to in paragraph 3 of this Article;
- (b) any person who is able to present the goods in question or to have them presented to the customs authority; or
- c) a representative of one of the persons referred to in paragraph 3 of this Article or points a) or b) of this paragraph.

5. The person referred to in paragraphs 3 and 4 of this Article shall, at his request, be authorized to amend one or more particulars of the summary declaration after it has been lodged. However, no amendment shall be possible after the customs:

- a) have informed the person who lodged the summary declaration that they intend to examine the goods; or
- (b) have established that the particulars in questions are incorrect; or
- (c) have allowed the removal of the goods.

Article 41.C

1. The customs office of entry may waive the lodging of a summary declaration in respect of goods for which, before expiry of the time limit referred to in paragraphs 3 and 4 of Article 41.A of this Law, a customs declaration is lodged. In such case, the customs declaration shall contain at least the particulars necessary for a summary declaration and, until such time as the former is accepted in accordance with Article 71 of Customs and Excise Code in Kosovo, it shall have the status of a summary declaration. Customs authorities may allow the customs declaration to be lodged at a customs office of import different from the customs office of entry, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of entry.
2. Where the customs declaration is lodged other than by use of data processing technique, the customs shall apply the same level of risk management to the data as that applied to customs declarations made using a data processing technique.

Article 6

After Article 181 of the basic Law there are added four new Articles 181.A, 181.B, 181.C and 181.D with the following text:

Article 181.A

1. Goods leaving the customs territory of the Kosovo, with the exception of goods carried on means of transport only passing through the airspace of the customs territory without a stop within this territory, shall be covered either by a customs declaration or, where a customs declaration is not required, a summary declaration.
2. Ministry of Finance through the sub-legal act for the implementation of Customs and Excise Code with changes will be used to establish:
 - a) the time limit by which the customs declaration or a summary declaration is to be lodged at the customs office of export before the goods are brought out of the customs territory of the Kosovo,
 - b) exception from rules and variations of the time limit referred to in the first point, and

c) the conditions under which the requirement for a summary declaration may be withdrawn or adapted, and

d) the cases in which and the conditions under which goods leaving the customs territory of the Kosovo are not subject to either a customs declaration or a summary declaration, in accordance with the specific circumstances and for particular types of goods traffic, modes of transport and economic operators and where international agreements provide for special security arrangements.

Article 181.B

1. Where goods leaving the customs territory of the Kosovo are assigned to a customs approved treatment or use for the purpose of which a customs declaration is required under the customs rules, this customs declaration shall be lodged at the customs office of export before the goods are to be brought out of the customs territory of Kosovo.

2. Where the customs office of export is different from the customs office of exit, the customs office of export shall immediately communicate or make available electronically the necessary particulars to the customs office of exit.

3. The customs declaration shall contain at least the particulars necessary for the summary declaration referred to in paragraph 1 of Article 181.D of this Law.

4. Where the customs declaration is made other than by use of a data processing technique, the customs shall apply the same level of risk management to the data as that applied to customs declarations made using a data processing technique.

Article 181.C

1. Where goods leaving the customs territory of the Kosovo are not assigned to a customs approved treatment or use for which a customs declaration is required, a summary declaration shall be lodged at the customs office of exit before the goods are to be brought out of the customs territory of the Kosovo.

2. Customs may allow the summary declaration to be lodged at another customs office, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of exit.

3. Customs may accept, instead of the lodging of a summary declaration, the lodging of a notification and access to the summary declaration data in the economic operator's computer system.

Article 181.D

1. The procedure foreseen in Article 181.A, 181.B and 181.C shall be used to establish a common data set and format for the summary declaration, containing the particulars necessary for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using, where appropriate, international standards and commercial practices.
2. The summary declaration shall be made using a data processing technique. Commercial, or transport information may be used, provided that it contains the necessary particulars. Customs may accept paper-based summary declarations in exceptional circumstances, provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.
3. The summary declaration shall be lodged by:
 - a) the person who brings the goods, or who assumes responsibility for the carriage of the goods in the customs territory of Kosovo; or
 - b) any person who is able to present the goods in question or to have to present them to the customs authorities; or
 - c) a representative of one of the persons referred to in points a) and b) of this paragraph.
4. The person referred to in paragraph 3 of this Article shall, at his request, be authorized to amend one or more particulars of the summary declaration after it has been lodged. However, no amendment shall be possible after the customs:
 - (a) have informed the person who lodged the summary declaration that they intend to examine the goods; or
 - (b) have established that the particulars in questions are incorrect; or
 - (c) have allowed the removal of the goods.

Article 7

After Article 252 of the basic Law there is added a new Article 252.A with the following text:

Article 252.A

1. Any person who has committed or for which there is a suspicion of having committed an offence prescribed by the provisions of the Customs and Excise Code and other Laws which are applied Kosovo Customs, for which he/she must be arrested, may be arrested by customs officers authorized by the Director General of Customs according to Article 6.9(a).

2. When it is not possible to arrest the person at the time of the offense or person avoided the arrest, perpetrator may be arrested by any customs officer at any appropriate time as the offence was committed at the time of arrest.

3. Director General of Customs will bring Administrative Instruction for implementation of this provision.

Article 8

Article 272 of the basic Law shall be deleted and reworded as following:

“In the cases set forth in Article 273 of Criminal Code of Kosovo, when the amount of the customs duties applicable to the goods imported or exported illegally does not exceed the amount of five thousand (5000) Euro an administrative penalty shall be applicable instead of the criminal penalty. The administrative penalty shall consist of a pecuniary sanction from two times the tax paid value to ten times the tax paid value and shall be issued by the competent customs office to the liable person”.

Article 9

1. Article 276 of the basic Law, point z), the amount of “**five thousand (5,000) Euro**” shall be deleted and replaced with the amount “**five hundred (500) Euro**”.

2. Article 276 of the basic Law, after point z). there is added a new point zh) with the following text:

zh) for all the violations set forth in Article 276, shall be fined with a penalty in the amount from five hundred (500) Euro up to ten thousand (10.000) Euro.

Article 10

In the whole text of the Article 298 and 299 of the basic Law, the phrase “**Fraudulent Evasion**” shall be replaced with the phrase “**Fiscal Evasion**”.

Article 11

After Article 291 of the basic Law there are added two new Articles 291.A and 291.B with the following text:

Article 291.A
Interpretation

“Independent Review Board” means the Board initially established under UNMIK Administrative Direction No. 2000/7 of 12 April 2000 Implementing UNMIK Regulation No. 2000/20 of 12 April 2000 on Tax Administration and Procedures, and currently governed by the Law on Tax Administration and Procedures n. 03/L-222. Competent court means the court as set forth by the Law on amending and supplementing the Law on Tax Administration and Procedures No.03/L-222.

Article 291.B
Tax agreement

Before the hearing, parties can settle the dispute, wholly or partially, through an agreement on the issues and the amount of taxes, duties, penalties or interest due. The settlement must be written and becomes definitive once it has been approved by the court on the grounds of its compliance with the principle of fairness and transparency. Once the decision becomes definitive, the trial before the court ends and no further request from the fiscal or customs administration on the same facts is allowed. If the decision is partial, the court shall carry out the definition of the outstanding balance.

Article 12

Article 291 of the basic Law shall be renamed and reworded as following:

Article 291
Appeal/ request for review of decision

1. Every person who has received a decision from Customs has the right to request a review of it, which is related to the application of customs legislation, the decision which is related directly or indirectly.
2. The request for review of the decision is submitted to the Customs Appeals Sector within thirty (30) days of the date of receipt of the challenged decision.
3. The Appeal Sector in reviewing the customs decision may:
 - a) reject the request of review and confirm the challenged decision;
 - b) accept the request and nullify the challenged decision;
 - c) accept the request and revoke the challenged decision;

d) accept the request partially and amend the decision accordingly.

4. The Customs Appeals Sector will decide on the request of review, through a written act within sixty (60) days of the receipt of the request.

5. The decision of the Appeals Sector may appeal it to the Independent Review Board, in accordance with the Law on amending and supplementing Law on Tax Administration and Procedures No. 03/L-222, within thirty (30) days of receiving notification of the decision of the Appeals Sector, for all the decisions received by 30 November 2012.

6. From 1 December 2012 the competent body entitled to receive the appeals against the Appeal Sector's decisions shall be the Fiscal Division of the Administrative Department of the Basic Court of Pristina, in accordance with the Law on amending and supplementing on Law Tax Administration and Procedures No. 03/L-222.

7. When the Independent Review Board holds a closed hearing, the Customs will respond in writing within thirty (30) days from the day of notification regarding the appeal.

8. When the Board holds an open hearing, the Customs will be represented by an authorized representative.

9. The proceedings before the competent court shall be regulated by the procedural rules set forth by the Law on amending and supplementing Law on Tax Administration and Procedures No. 03/L-222, the Law on the Courts No. 03/L-199, the Law on Administrative Conflicts n. 03/L-202 and by any other relevant law in force in Kosovo. Against the decision of the competent court, the interested party may submit an appeal to the Appeals Court in accordance with the Law on amending and supplementing Law on Tax Administration and Procedures No. 03/L-222.

10. If it is not in contradiction with the provisions contained in this code, the provisions of the Law on amending and supplementing Law on Tax Administration and Procedures No. 03/L-222 shall find application for the whole appeal procedure. In case it is not foreseen by this Law the regulation of any provision of appeals procedure, the Law on general administrative procedures will be applicable as a subsidiary Law.

Article 12
Entry into Force

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

Law No. 04/L-099
3 May 2012

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI